

**A HISTORICAL STUDY  
OF MUSLIM TREATMENT OF CHRISTIANS  
IN ISLAMIC JERUSALEM  
AT THE TIME OF  
'UMAR IBN AL-KHATTĀB AND SALĀH AL-DĪN WITH  
SPECIAL REFERENCE TO ISLAMIC VALUE OF JUSTICE.**

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**A thesis submitted in partial fulfilment of the requirements of the University of  
Abertay Dundee for the degree of Doctor of Philosophy.**

**Ph.D.**

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the examiners.**

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**Date** 19.9.2003

## ABSTRACT

The thesis is concerned with the study of Muslim treatment of Christians in Islam in general and in Islamic Jerusalem in particular. It conducts detailed research based on primary sources illustrating the juristic principles and rules. This formed the conceptual framework of Muslim treatment of non-Muslims which later became most useful in finding plausible explanations for 'Umar and Salāh al-Dīn's treatment of Christians in Islamic Jerusalem. In order to provide more support for an accurate picture of 'Umar and Salāh al-Dīn's treatment of Christians, the study further analyses some historical episodes of their treatment of Christians outside Islamic Jerusalem.

The study discusses and analyses the steps taken by the Muslims towards the first and second conquest of Islamic Jerusalem, the situation of Christians in Islamic Jerusalem prior to, and the attitude of the Christian towards, both conquest, and the treatment of the Christians in Islamic Jerusalem after both conquests. As 'Umar's assurance of safety defines the status of Christians communities under the new Muslims rule and established the foundations of the way Muslims should follow when treating Christians in Islamic Jerusalem, the study examines and critically analyses the assurance using al-Tabarī's and the orthodox patriarchate versions. After discussing Salāh al-Dīn's preparation to liberate Islamic Jerusalem the study verifies the accounts of the communication between Salāh al-Dīn and the Crusaders and analytically discusses the peace negotiations between Salāh al-Dīn and Richard, the Lion-Heart King of England. Finally, the study concludes with a final discussion and summary of the findings, together with some critical remarks and recommendations.

This study attempts to establish and develop new evidence for an academic debate concerning the Muslim treatment of Christians in Islamic Jerusalem, and to link the juristic principles with the historical facts relating to the Muslim treatment of Christians during 'Umar and Salāh al-Dīn's era. The aim of this research is not only intended to make an in depth academic discussion, but also it is hoped that it is a significant contribution to and a valuable source of reference in this field.

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## **DEDICATION**

**This work is dedicated to His Highness Shaikh Hamdan Bin Rashid Al-Maktoum, the Deputy Ruler of Dubai and Minister of Finance and Industry of United Arab Emirates, for his generous financial support throughout the duration of this work.**

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Maher Y. Abu-Munshar  
Dundee 2003

# **DECLARATION**

**I hereby Declare That This Thesis Has Been Written By Myself And  
That All Materials Not My Own Have Been Identified**

**Maher Younes Abu-Munshar**

## Transliteration Table

<i>Arabic</i>	<i>Transcription</i>
ء	'
ا	a
ب	b
ت	t
ث	th
ج	j
ح	h
خ	kh
د	d
ذ	dh
ر	r
ز	z
س	s
ش	sh
ص	s
ض	d
ط	t
ظ	ẓ
ع	'
غ	gh
ف	f
ق	q
ك	k
ل	l
م	m
ن	n
ه	h
و	w
ي	y

<b>Long</b>	آ	ā
	و	ū
	ي	ī
<b>Doubled</b>	و	uww (final form ū)
	ي	iyy (final form ī)
<b>Diphthongs</b>	و	au or aw
	ي	ai or ay
<b>Short</b>	ا	a
	و	u
	ي	i

Note:

The researcher would like to draw the attention that due to some difficulty in the computer system, he was unable to transcribe certain letters. These letters were ح, ص, ض, and ط.



## Gregorian-Hijri Dates Converter

The Hijri is the name of the Islamic lunar calendar. It started in the moon year in which Prophet Muhammad immigrated from Makka to Madinah, which took place in 622 AD. The Hijri date is written in English with AH as a prefix or suffix in place of AD. The researcher has relied on the following website in date conversion.

<http://www.rabiah.com/convert/>

# CHAPTER ONE

## Introduction

### 1.1 Research background

The interest in studying Muslim treatment of the Christians in Islamic Jerusalem stems from the fact that the researcher is a Palestinian Muslim living in Islamic Jerusalem under Israeli occupation, where there is continuous suffering of the Palestinians (Muslims and Christians). The researcher felt a duty to illustrate the situation of the Christians under Muslim Rule and the treatment they received from Muslims during two important historical periods: the first is Caliph ‘Umar’s period, and the second is Sultān Salāh al-Dīn’s. The reason for choosing these two periods is that they were the most important examples in Islamic Jerusalem history. In the first, Islamic conquest liberated the native Christians from the domination and the persecution of the Byzantines, whereas in the second period the liberation of Islamic Jerusalem liberated both the Christians and Muslims from the domination of the Latin Crusaders. During these two periods Islam enabled Christians and Jews in particular to live side by side peacefully after centuries of conflict. From an initial examination of Muslim treatment of Christians at the time of ‘Umar and Salāh al-Dīn, particularly in Islamic Jerusalem, it was realised that, there were some differences and numerous similarities between the two periods.

When studying the way ‘Umar and Salāh al-Dīn treated Christians in Islamic Jerusalem, there is a great need to discuss the juristic principles on which ‘Umar and

Salāh al-Dīn based their treatment. There is also a need to critically analyse some historical events outside Islamic Jerusalem during both periods in order to find out more about the Muslim's attitude towards Christians in other parts of the Islamic state.

It has been said that the Qur'ānic verses and prophetic traditions provide a set of theories that should be implemented in practice. Some of the implementations, of these theories occurred during the life of Prophet Muhammad. He explained and illustrated different issues to his companions including the meaning of some Qur'ānic verses. The study intends to examine the Qur'ānic verses, the Prophetic traditions and, finally, the Muslim leaders' practices and jurists' views relating to the principles of Muslim treatment of non-Muslims. The researcher has noted the huge interest of the Islamic jurists of the different schools of thought in the subjects of *Dhimmi*, *Dhimma* and the *Jizyah*. This can be seen by the great attention they have paid to this subject, with large sections in their books devoted to them.

Despite the importance of Muslim treatment of Christians under the rule of the above two leaders, it still seems that they are insufficient to cover all areas of research regarding these leaders. Attempts have been made by Muslim and non-Muslim researchers to study Islamic history, but their work has tended to cover a long period of Islamic history without a particular focus on the two periods in question. Although there are few studies that have discussed the treatment of Christians by Muslims in the times of 'Umar and Salāh al-Dīn, they have not linked them to the juristic principles of Islam.

The history of Islamic Jerusalem in these two periods has suffered from falsification in the recent past; and has been subject to strong attack from a number of western writers, who consider that Muslim's treatment conceals great oppression and aggression towards the non-Muslims. Some of those western writers, for example Abraham and Haddād, went further to claim that the Islamic system classified non-Muslims as second, or even third class citizens. However, having analysed their research, it was obvious that their conclusion was not based on deep academic and scientific investigation of the topic; rather their research was based on arbitrary selective information out of a huge number of examples and literature. For instance, they based their argument on Islam not allowing non-Muslims to occupy the post of a Caliph or judge. Furthermore, orientalist, in particular, have attempted to portray that Muslim treatment of Christians, after the first and second Islamic conquests, was similar to any occupation that Jerusalem has witnessed during its long history. More specifically, that the Islamic conquest in these two periods turned the life of non-Muslims into complete disarray. These matters will be dealt with later on in chapters two and four.

Therefore, it is important to examine Muslim treatment of non-Muslims from an Islamic juristic point of view and to use relevant historical cases, during the times of the Caliph 'Umar and Salāh al-Dīn, in and outside Islamic Jerusalem in order to reveal the truth and scrutinize the above allegations.

## **1.2 Difficulties faced in the research**

The shortcomings of the classical juristic and historical literature are that they mainly report historical episodes and events without critical analysis or focus on Muslim

treatment of Christians during and after the first and second Islamic conquest of Islamic Jerusalem. Early Islamic historians and jurists are not in agreement with regard to the originator of some very relevant documents, namely, 'Umar's pact and Banū Taghlib's conditions. Regarding 'Umar's assurance of safety of the Christians of Aelia (Islamic Jerusalem), various versions of this assurance have been reported by early historians, who, amongst others, have not paid much attention to discussing Muslim treatment of Christians in light of this assurance.

The problem of studying Muslim treatment of the Christians at the time of Salāh al-Dīn, in and outside Islamic Jerusalem, is that historians have paid scant attention to the importance of this issue. Muslim historians have reported the event in a descriptive form while non-Muslim historians have discussed the issue of Crusaders as a whole without focusing on Muslim's treatment of Christians.

In general, the difficulties that have arisen from studying the Muslim treatment of Christians, within and outside Islamic Jerusalem at the time of 'Umar and Salāh al-Dīn, can be classified into the following: Firstly, the study is both juristic and historical. This meant the researcher had to refer to both kinds of literature. Secondly, most of the literature – especially the juristic books and those covering the first Islamic conquest – is in Arabic and is rarely found in libraries in the United Kingdom. Then there was the problem of translation. Not only from Arabic into English, but also extensively from Italian and French

Thirdly, the historical information, particularly from the period of 'Umar, were documented long time after the actual dates of events. This resulted in narrations not

in agreement with one another and thus various versions of important documents and facts emerged. All this necessitates an extensive effort in order to critically analyse the authenticity of important documents whenever this is necessary.

Fourthly, the task was made harder and more complex due to differences of opinions between the followers of the schools of *fiqh*. Differences among early Muslim jurists and scholars were mainly on issues relating to the way Muslims should treat non-Muslims, the aspects surrounding the *Jizyah*, and the rights and obligations of the *Dhimmīs*. These differences were a natural outcome of the differences of opinion regarding the interpretations of the Qur'ānic verses dealing with non-Muslims, a reflection of the main view of the schools of thought to which the jurist belongs, as well as a result of the adoption of different reasoning methods. For example, the *Hanafīs* and *Mālikīs* schools of thought selected a lenient approach in their treatment of non-Muslims, while the *Shāfi'īs* and *Hanbalīs* schools of thought adopted a more restricted way in their dealings with non-Muslims. The researcher, therefore, tried to carefully select a specific number of juristic and Qur'ānic interpretations and avoid going into the details of their disagreements except when necessary. However, because the period between 'Umar and Salāh al-Dīn was so long and very eventful, an extensive reading was necessary.

### 1.3 The aims of the study

The aims of this research are:

1. to identify the fundamental principles relating to Muslim treatment of non-Muslims;

2. to carry out a detailed study of ‘Umar’s and Salāh al-Dīn’s period and provide a better understanding of some historical events in and outside Islamic Jerusalem, with regard to Muslims’ treatment of Christians;
3. to conduct a comparative study to differentiate between and contrast these two periods;
4. to present new data and develop an academic debate on this subject to help understand the framework for how Muslims should deal with Christians.

#### 1.4 Research methodology

Muslim treatment of non-Muslims will be discussed in the first part of this thesis and critically analysed by referring to the primary sources of Islamic law in order to clarify the theme of the original Islamic system on this subject. The opinions formed by classical and modern Islamic scholars will be examined and analysed, in order to understand and identify the Islamic approach to dealing with non-Muslims. This is done in several stages. Firstly, Qur’ānic verses with regard to the Muslim treatment of non-Muslims have been collected and analysed using classical and contemporary Qur’ānic interpreters. Secondly, examples from the Prophet’s *Sunnah* have been analysed. Thirdly, the practices of early Caliphs with regard to non-Muslims have been discussed. Finally, the research focuses on issues concerning treatment of non-Muslims.

The second part of this research is based on historical methodology, and is carried out in several steps. Firstly, historical cases focusing on Muslims treatment of Christians from the time of ‘Umar and Salāh al-Dīn, in and outside Islamic Jerusalem, have been collected and analysed. Where necessary, both the narratives and chain of narrators (*Isnād*) have been critically examined and analysed. Secondly,

the situations of Christians prior to the first and second Islamic conquests of Islamic Jerusalem were discussed. Lastly, the relation between Muslims and Christians, and the way in which Christians were treated by Muslims in Islamic Jerusalem at the time of ‘Umar and Salāh al-Dīn were discussed respectively.

In this thesis, the Arabic text of some selected quotations were included due to their importance. The material for this study has been gathered through the examination of relevant literature on Islamic law and history. Research materials have been obtained from the researcher’s own library, and the libraries of the University of Edinburgh, the University of Glasgow, and the al-Maktoum Institute for Arabic and Islamic studies. Original data was also obtained from Jordan and Egypt. Workshops and conferences relating to Islamic Jerusalem have been a good source of information.

## **1.5 Literature review**

The aim of this literature review is to reveal some of the relevant work that has already been completed in the field, address the deficiencies of the previous work, and provide a review and contribution to the literature. Little previous work addresses the central topic of this thesis: Muslim treatment of non-Muslims. Where works do address the central theme, the researcher has tried to either offer a more detailed consideration, or account or note where in the main text further reference to the raised issues can be found. It seems that another study of this kind has not yet been produced.

The majority of classical jurists and scholars have mentioned this subject under different titles and headings. In order to collect sufficient information on this subject,



the study has consulted a large number of books. These included *fiqh* (jurisprudence), *Hadīth* (prophetic traditions), *Tafsīr* (Qur'ānic interpretation), Islamic history and *Sīrah* (the Prophet's biography). In the process, numerous significant collections of information and data about the Islamic way of treatment of non-Muslims were discovered. Recent writings on these issues have also been consulted. The research was restricted to a specific number of jurists representing the well-known schools of thought and a consideration of known historical cases at the time of 'Umar and Salāh al-Dīn.

As far as Islamic law is concerned, chapter two relied heavily on interpretations of Qur'ān and *Hadīth* literature, bibliography on the Prophet, and the literature of classical and contemporary Muslim jurists and scholars. With regard to interpretation of the Qur'ān, the researcher observed that there were similarities amongst the interpretations regarding the verses dealing with non-Muslims. Despite this, the researcher found that interpreters were influenced by their adopted school of thought. Finally, uncertainties amongst the interpretations of Qur'ānic verses regarding some parts of the verses were also noted.

With regard to 'Umar's period, a number of historical cases from Islamic Jerusalem and outside it were examined. In the latter, the allegations of the unjust treatment of Christians were the focus of examination. The study critically analysed Ibn 'Asākir's various versions of 'Umar's pact, as he was unique in reporting five different narrations of this document. The study discussed the argument set forth by 'Ajīn, in his article where he discussed the authenticity of the attribution of this document to 'Umar. Tritton's book, a critical study of the pact of 'Umar, is also addressed.

Most of the classical Islamic literature that dealt with the first Islamic conquest of Aelia (Islamic Jerusalem) reported the episodes of the conquest and the treatment Christians received in a descriptive rather than analytical manner. This deficiency in analytical studies in classical literature has resulted in different opinions among modern scholars. Muslim scholars, like El-‘Awaīsī, argued that the Islamic conquest of Aelia (Islamic Jerusalem) liberated the Christians from the oppression of the Byzantines and rescued the Jews from oppression at the hands of the Byzantines. Non-Muslim scholars like Goitein claimed that the Islamic conquest threw the Christians community of Aelia (Islamic Jerusalem) into complete disarray. However, Karen Armstrong, a western historian, argued that after the conquest, the Muslims established a system that enabled Jews, Christians and Muslims to live together for the first time.

With regard to ‘Umar’s assurance of safety, the latest study by El-‘Awaīsī, has been benefited from and utilized to strengthen and build up the argument in this research. A recent book published in 2000 by ‘Athāminah was also made use of. This book deals with the history of Palestine over five centuries, from 634 AD to 1099 AD.

Events before and during the Crusades were recorded by a number of western historians, some of whom were participants in the expedition, such as Fulcher of Charters and William of Tyre. The views of western historians, who wrote about the crusades, were extensively used; for instance, Ranciman in his book ‘A history of the Crusade’ and Lane-Poole’s ‘Saladin and the fall of the Kingdom of Jerusalem’. Lane-Poole’s biography of Salāh al-Dīn remains a primary source for the historian.

As for the Muslim side during the period of the Crusades, a number of Muslim writers wrote accounts of the events, keeping records of their experiences. As a result of this, a large body of literature concerning the period was created. A substantial proportion has survived, in one form or another, until the present day. It was possible to examine these works in order to understand the Muslim treatment of Christians, and also to understand the motives behind the Muslims' reactions to the Crusaders.

Ibn Shaddād wrote a number of works, the most famous of which was *al-Nawādir al-Sultāniyya wa al-Mahāsin al-Yūsufiyya* takes the form of a biography of Salāh al-Dīn, and was written by Ibn Shaddād from a personal perspective since he was a close friend and advisor of Salāh al-Dīn. It is divided into two parts. The first part is an account of Salāh al-Dīn's early life, and lists his good qualities. The second part is an account of his career. Salāh al-Dīn's career up until July 1188 AD receives a fairly brief treatment, as Ibn Shaddād was not an eyewitness to it, and had to rely on the accounts of 'trustworthy persons' as his sources. After he joined Salāh al-Dīn's service, the account becomes much more detailed. Furthermore, *al-Nawādir al-Sultāniyya wa al-Mahāsin al-Yūsufiyya* contains much information regarding the Crusaders and their relation with the Muslims.

Imād al-Dīn was the secretary to Nūr al-Dīn and then to Salāh al-Dīn, and chronicled the latter's life and death. He is better known, however, for his historical works, which include *Kitāb al-Fath al-Qussī fī al-Fath al-Qudsī*. This latter book is a more specific account of the re-conquest of Islamic Jerusalem. There are numerous citations of Imād al-Dīn's works in the *Kitāb al-Rawdatain fī Akhbār al-Dawlatain al-Nūrīyā wal al-Salahīyā* by Abū Shāma. Abū Shāma stated that the original versions of 'Imād al-Dīn's works used such elaborate styles of rhymed prose and

literary devices that they made the reader forget what he just read. Abū Shāma thus edited them. Abū Shāma uses only extracts from the works of ‘Imād al-Dīn, and does not present his reader with entire texts. Furthermore, in his citations, Abū Shāma rarely specifies which text of ‘Imād al-Dīn he is quoting from.

A large number of books and articles dealing with Muslim treatment of non-Muslim, in general, exist. However, in most cases the researcher found that these works dealt with the subject broadly without a focus on specific historical periods. There were no links with the juristic side of this treatment. It has also been noted that some of the literatures, which the researcher used in this thesis, have mainly focused on one issue relating to Muslim treatment of non-Muslims and have left the other issues.

The study greatly utilized articles in the journal of Islamic Jerusalem studies. These articles included Al-Būtī’s article on, *Mu’āmalet al-Dawlah al-Islamiyah li Ghair al-Muslimin: al-Quds Namūdhan*; El-‘Awaīsī’s article on ‘Umar’s assurance of safety to the people of Aelia (Jerusalem), a critical analytical study of the historical sources; and Glubb’s article on Jerusalem: the central point in Saladin’s life. Valuable information was obtained from the Islamic Jerusalem course held in Stirling University in spring 2001 attended by the researcher. Useful information was also obtained from the international conferences on Islamic Jerusalem held in the London School of Oriental and African studies (SOAS). The 1998 conference discussed the centrality of Jerusalem in Islam. The 1999 conference discussed the Muslim-Christian relations in Islamic Jerusalem, while the 2000 conference discussed the status of Jerusalem in Islamic jurisprudence and international law.

Al-Būtī in his article, *Mu'āmalet al-Dawlah al-Islamīyah li Ghair al-Muslimīn: al-Quds Namūdhan*, discussed several issues, one of which related to the concept of minority and its place in the relations between Muslims and non-Muslims. Although al-Būtī mentioned that he would examine the rules and principles which govern the relations with non-Muslims and how Muslims should treat non-Muslims, when reading the article, the researcher was not able to find this examination. Al-Būtī also examined the constitution of *Madināh* which is considered one of the most important principles governing the relations and way of treatment that Muslims should follow in their dealing with non-Muslims. However, al-Būtī touched on one of the issues of this important document, 'the concept of *'ummah*'. Furthermore, whilst al-Būtī pointed out that some Muslim scholars called for harsh treatment of non-Muslims, that scholar failed to give any examples of this. As far as the issue of Islamic Jerusalem is concerned, al-Būtī examined the situation of the Christians in Aelia (Islamic Jerusalem) prior to the first Islamic conquest of the city. However, al-Būtī stated that he would not discuss 'Umar's assurance of safety after the conquest. Any study on Muslim treatment of the Christians ought to discuss or at least touch on this assurance. Finally, al-Būtī titled his article as 'The Islamic State's treatment of non-Muslims: Jerusalem as an example'; however, the researcher found that this article examined only one historical period and this examination was very brief. Although, Islamic Jerusalem was supposed to be the study case, al-Būtī mentioned one brief incident which does not reflect the way that Muslims should treat non-Muslims.

El-'Awaīsī critically analysed 'Umar assurance of safety using al-Tabarī's and the Orthodox patriarchate's version. He implemented a scientific and academic discussion, supported by solid evidence in his arguments with other scholars. Despite

the value of this article, El-‘Awaīsī paid no attention to some important matters; for example, he stated that he would not deal with the pact of ‘Umar, even though some historians, for instance Ibn al-Murajja, have claimed that ‘Umar took a pact from the Christians of Aelia (Islamic Jerusalem) in return for his assurance. It is felt that any study on ‘Umar’s assurance must be combined with a study of the pact of ‘Umar.

El-‘Awaīsī pointed out that ‘Umar’s assurance formed the cornerstone of relations with non-Muslims in Islamic Jerusalem, but he gave no examples to illustrate Muslim treatment of the Christians in Aelia (Islamic Jerusalem) after its Islamic conquest in light of this assurance. Despite this, El-‘Awaīsī stated at the end of the article that the Islamic conquest of Aelia (Islamic Jerusalem) was liberation for both Jews (who were allowed to live in Islamic Jerusalem) and Christians from persecution and oppression.

As far as Islamic law and history are concerned, the study relies heavily on the literature of classical Muslim jurists and historians and used contemporaries for the discussions. The main sources that were consulted during the research include:

From the *Hanafī* school of thought: the study refers to *Kitāb ul- Kharāj* by *Abū Yūsuf*, *Badā’i ‘ al-Sāni ‘ fī Tartīb al-Sharā’i* by *Al-Kāsānī*, and *Rad al-Muhtār ‘Ala al-Dur al-Mukhtār Sharh Tanwīr al-Absār* by *Ibn ‘Ābdīn*.

From the *Mālikī* school of thought: this theses refers to *Al-Muwatta’ bi riwāyat Muhammad Ibn al-Hasan al-Shaībanī*, *Mālik Ibn Anas*, *al-Qawānīn al-Fiqhiyah* by

Ibn Juzāī, *al-Jāmi' li Ahkām al-Qur'ān* by Al-Qurtubī, *al-Furūq wa Anwār al-Burūq fī Anwā' al-Furūq* by Al-Qarāfī.

From the *Shāfi'ī* school of thought: the study refers to *Kitāb al-Umm* by al-Sāfi'ī, *Kitāb Al-Amwāl* by Abū-'Ubayd, *al-Ahkām as-Sultaniyyah* (the laws of Islamic governance) by Al-Māwardī, *Rawdat al-Tālibīn* by Al-Nawawī, *Ahkām al-Qur'ān* by Ibn al-'Arabī.

From the *Hanbalī* school of thought: *Al-Musnad* by Ibn Hanbal, *al-Ahkām as-Sultaniyyah* by Al-Farrā', *Ahl al-Milah wa al-Ridah wa al-Zanādiqah wa Tārīk al-Salāh wa al-Farā'd Min Kitāb al-Jāme'* by Al-Khalāl, *Majmū' fatāwa Shaikh al-Islām Ahmad Ibn Taymīyah* by Ibn Taymīyah, *Ahkām Ahl al-Dhimma* by Ibn al-Qayyim, *al-Mughnī* by Ibn Qudāma,.

From the *Zāhirī* school of thought: the study refers to *Al-Muhallā bil Ather* by Ibn Hazm.

As far as interpretation of the Qur'ān is concerned, the study refers to *Tafsīr al-Tabarī*, *al-Musammā Jāmi' al-Bayān fī Ta'wīl al-Qur'ān* by al-Tabarī, *al-Jāmi' li Ahkām al-Qur'ān* by Al-Qurtubī, *al-Tafsīr al-Kabīr aw Mafātīh al-Ghaib* by Al-Rāzī, *Ahkām al-Qur'ān* by Ibn al-'Arabī, *Tafsīr al-Kashāf 'An Haqā'iq Ghawās al-Tanzīl wa 'Uṭn al-Aqāwīl fī Wjūh al-Ta'wīl* by Al-Zamakhsharī, *Tafsīr al-Qur'ān al-'Azīm* by Ibn Kathīr, *Fī Zilāl al-Qur'ān* by Qutb, *al-Tafsīr al-Wasīt* by Al-Zuhāilī.

With regard to the *Hadīth*, the main references are: *Al-Musnad* by Ibn Hanbal, *Sahīh Al-Bukhārī* by Al-Bukhārī, *Sahīh Muslim* by Imām Muslim, *Sunan Abī Dāwūd* by Abū Dāwūd, *al-Mu‘jam al-Awsat* by Al-Tabarānī, *Summarized Sahīh Al-Bukhārī* by Al-Zubaidī, *Fath al-Bārī Sharh Sahīh al-Bukhārī* by Ibn Hajar, *Kanz al-‘Umāl fī Sunan al-Aqwāl wa al-Af‘āl* by Al-Hindī,

As far as Islamic history and *Sīrah* are concerned, the study refers to *Futūh al-Shām* by ‘Al-Wāqidī, *Al-Sīrā al-Nabawīya* by Ibn Hishām, *Futūh Misr wa Akhbāruhā* by Ibn ‘Abd al-Hakam, *Futūh al-Buldān* by Al-Balādhurī, *Tārīkh al-Ya‘qūbī* by Al-Ya‘qūbī, *Tārīkh al-Umam wa al-Mulūk* by Al-Tabarī, *Tārīkh Madīnat Dimashq* by Ibn ‘Asakīr, *al-Nawādir al-Sultāniyya wa al-Mahāsin al-Yūsufiyya* by Ibn Shaddād, *Kitāb al-Fath al-Qussī fī al-Fath al-Qudsī* by ‘Imād al-Dīn al-Asfahānī, *Kitāb al-Rawdatain fī Akhbār al-Dawlatain al-Nūrīyā wal al-Salahīya* by Abū-Shāma, *al-Kāmil fī al-Tārīkh* by Ibn al-Athīr, *Tārīkh Mukhtaser al-Dūwal* by Ibn al-‘Ibrī, *Fadā’il bayt al-Maqdis wa-al-khalīl wa-fadā’il al-Shām* by Ibn al-Murajja, *al-Uns Al-Jalīl bi Tārīkh al-Quds wa al-Khalīl* by Al-Hanbalī.

With regard to modern scholars and writers, the study refers to *Filastīn fī Khamsat Qurūn: Min al-Fath al-Islāmī Hattā al-Ghazw al-Faranjī (634-1099)* by ‘Athāminah, *Mu‘āmalet al-Dawlah al-Islamīyah li Ghaīr al-Muslimīn: al-Quds Namūzjan* by Al-Būtī, *‘Umar’s assurance of safety to the people of Aelia (Jerusalem) a critical analytical study of the historical sources* by El-‘Awaisī, Patriarch Sophronious, *‘Umar Ibn al-Khattāb and the Conquest of Jerusalem* by Sahas, *al-‘Uhda al-Umarīya, (Derāsa Naqdeyya)* by ‘Ajīn, *The Caliphs and Their Non-Muslim Subjects A critical Study of the Covenant of ‘Umar* by Tritton, *A History Of The Crusades* by



Runciman, *Saladin and the fall of the Kingdom of Jerusalem* by Lane-Poole, *The Crusades: Islamic perspective*, by Hillenbrand, *Ghaīr al-Muslimīn fī al-Mujtama‘ al-Islām* by Al-Qaradāwy, *Islam and other faiths* by Al-Fārūqī, *al-Haraka al-Salībīyya, Safha Musharifa fī Tārīkh al-Jihād al-Islāmī fī al-‘usūr al-wstā* by ‘Āshūr and many others.

## 1.6 Outline of the chapters

This study is divided into seven chapters:

- Chapter one is the introduction. It includes the research background, difficulties faced in the research, aim of the research, research methodology, literature review, and outline of subsequent chapters.
- Chapter two examines the juristic principles of Muslim treatment of Christians. This chapter essentially consists of a review and analysis of the basic evidence of the Qur’ān, the *Sunnah* and the actions of the Caliphs on their subjects. In particular, it seeks to depict the Qur’ānic view of tolerance in Islam and the freedom of religion. Additionally, this chapter discusses human unity as set out in both the Qur’ān and the Prophetic traditions. The purpose and the meaning of the *Dhimma* pact and the *Jizyah* tax are discussed and the obligations and rights of the *Dhimmī* explained. A discussion of the *Dhimma* pact in Islam and the reason behind prescribing the *Jizyah* has taken place. A brief overview of the concept of *Jihād* is given and its role in relation to non-Muslims. Finally, the principles of tolerances in Islam are discussed.

- ❑ Chapter three illustrates two cases of the Muslim treatment of non-Muslims at the time of Caliph ‘Umar Ibn al-Khattāb. The first case is that of Banū Taghlib and the second is a discussion of the pact of ‘Umar.
- ❑ Chapter four discusses the Muslim treatment of Christians in Aelia (Islamic Jerusalem) in the light of the first Islamic conquest with special reference to ‘Umar’s assurance of safety to the Christians of Aelia (Islamic Jerusalem).
- ❑ Chapter five discusses the reason behind the Crusades and the crusaders’ arrival to Islamic Jerusalem. A brief study of Salāh al-Dīn’s background is given. Additionally, a discussion of the status of the Christians in Islamic Jerusalem prior to the Crusades. The treatment of Christians in Egypt at the time of Salāh al-Dīn is then discussed. and an illustration of Islamic Jerusalem in the mind of Salāh al-Dīn has taken place.
- ❑ Chapter six discusses the steps taken towards the liberation of Islamic Jerusalem. Muslim treatment of Christians in Islamic Jerusalem in light of Salāh al-Dīn’s liberation of Islamic Jerusalem is also discussed. This chapter also deals with the correspondences between Salāh al-Dīn and Richard, the Lion-Heart, King of England.
- ❑ Chapter seven concludes with a final discussion and summary of the findings, together with some critical remarks and recommendations.

## CHAPTER TWO

### The juristic principles concerning Muslims treatment of non-Muslims in Islam '*al-Ta'sīl al-Shar'ī*'

#### 2.1 Introduction

Because Islam is a religion based on a divine revelation, there is the misunderstanding that it can neither tolerate nor accept co-operation with the followers of other religions such as Judaism and Christianity. This chapter will be mainly devoted to clarify and assess the validity or invalidity of the above claim. There is no doubt that the subject of the Muslim treatment of non-Muslims in the Islamic State has occupied a distinctive position in both Islamic jurisprudence and historical literature. This can be seen by referring to Qur'ānic verses, the Prophetic traditions, the *Fatwas*, and the practical application of Caliphs and Muslim jurists.<sup>1</sup> The amount of concern in Islamic law shows the great role that Islam is playing in building a solid basis for relations in the Islamic State between Muslims and non-Muslims. The importance of this can clearly be seen from the debates, that have taken place in the past and that are taking place in the present among the Muslim

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<sup>1</sup> *Sharī'ah* is to be found in the Qur'ān and the various collections of *Hadīth*. If the legislation of the Qur'ān is somewhat unclear, that of *Hadīth* is more so. Therefore various Muslim scholars have attempted to synthesize this mass of legislation in the form of codes, some of which have become classics. The compilation of codes and replies to particular questions (*fatwās*) were recognized as human effort to understand or apply *Sharī'ah* and could not simply be identified with *Sharī'ah*. This human formulation of *Sharī'ah* is known as *fiqh*.

jurists in their contributions and interpretations of the Qur'ānic verses and the Prophetic traditions relating to this topic.

During Islamic history, certain Muslims –particularly the Fatamīds—<sup>2</sup> have deviated from the Islamic guidelines and committed Islamically unacceptable actions against non-Muslims. This was due to their own perversion and violation of Islamic precepts. Orientalists have discussed the subject of Muslim treatment of non-Muslims using only bad examples that does not stem from the Islamic guidelines, and in most cases the conclusions they reached is that Muslims treated non-Muslims badly according to what had been prescribed by the Qur'ān and the *Hadīth*. In order to understand the basis on which Muslims should treat non-Muslims, there is an urgent need to conduct detailed research based on primary sources illustrating the Islamic perspective of Muslim treatment of non-Muslims and the rights of non-Muslims in an Islamic State.

This chapter essentially consists of a review and analysis of the basic evidence of the Qur'ān, *Sunnah* and the behaviours of the Caliphs toward their subjects. In particular, it seeks to depict the Qur'ānic view of tolerance in Islam and freedom of religion. In addition, this chapter discusses human unity as set out in both the Qur'ān and the

<sup>2</sup> For example, al-Hākim was strict in his treatment with the Christians and ordered them to wear distinguished clothes from the Muslims with a certain colour and prohibited them from celebrating some of the religious ceremonies. He also ordered the Christians to wear heavy wood crossès around their neck. Furthermore, he ordered the destruction of some of the churches in Egypt, the burning of some crosses, and the building of small mosques on the roofs of churches. See Al-Maqrīzī, Abū al-'Abāss Ahmad Ibn 'Alī, *Kitāb al-Mawā'iz bi Dhikr al-Khitat wa al-Āthār*, Annotated by al-Mansūr K. Manshūrāt Muhammad 'Alī Baydūn, Dār al-Kutub al-'Ilmiya, (Beirut. 1418 AH/1998 AD), 1<sup>ST</sup> Edition, Vol. 4, p.413, (Hereinafter cited as: Al-Maqrīzī, *Kitāb al-Mawā'iz*).

Prophetic traditions. A discussion of the *Dhimma* pact in Islam and an analytical account behind prescribing *Jizyah* will take place. Finally, this chapter gives a brief overview of *Jihād* and its place in relation to non-Muslims. The researcher would like to note that this chapter will be dealing only with the treatment inside the Islamic State.

## 2.2 The Sources of Islamic Jurisprudence

Islamic Jurisprudence is based on four sources: the Qur'ān, first and foremost, and the second the sayings and traditions (*Sunnah*) of the Prophet. *Sunnah* or *Hadīth* is the second source from which the teachings of Islam are drawn.<sup>3</sup> Islamic rules concerning belief, legislation (*Sharī'ah*) and morality are all based on these two sources. If the Qur'ān and *Sunnah* texts are limited, their general principles can be used as the criteria for similar and parallel situations. This helps to provide rules and principles for human beings until the Day of Judgment. Generations of well-educated and knowledgeable scholars of Islam have elaborated on both primary sources. They recognized the general principles and the objectives of the rules and followed the spirit of these rules in their judgments and *Fatwas* for new situations. This led to the establishment of consensus (*Ijmā'*)<sup>4</sup> and analogy (*Qiyās*).<sup>5</sup> The important thing to

<sup>3</sup> Khallāf, 'Abd al-Wahāb, *Ilm Usūl al-Fiqh*, Dār al-Qalam, (Cairo 1404 AH /1986 AD), 20<sup>TH</sup> Edition, p. 36.

<sup>4</sup> Consensus: The consensus regarded as authoritative is not of Muslims as a whole, but of those who are learned and whose opinions are respected and accepted i.e. the '*Ulamā* (religious scholars). This group became a powerful force for conformity, gradually dominating Islamic jurisprudence among the *Sunnīs*. Given that the community was the touchstone of *Sunnī* Islam, it should be no surprise that 'community consensus' was invoked frequently in legal decisions where the Qur'ān, the example of Muhammad or analogy fell short.

remember is that only the Qur'ān and *Hadīth* are considered as primary sources, the rest are secondary.

### **2.3 The need for guidelines to regulate the treatment of non-Muslims**

When Prophet Muhammad and his companions emigrated from Makka to *Madīnah*, the first Islamic State was established there under the leadership of Prophet Muhammad (PBUH) himself. The establishment of the Islamic State required the need to produce rules and regulations to govern the relations between Muslims and non-Muslims and the way of treatment that Muslims should follow in their dealing with non-Muslims, who were living under Islamic rule. Therefore the need for these rules became an absolute requirement. It should be noted that the Islamic State has never been without non-Muslims. In other words, the Islamic State is not a monopoly of Muslims alone a part from Makka; people from other religions can also enjoy living in it. Moreover, it can be seen that in some cases, for example after the first Islamic conquest of Jerusalem, the number of non-Muslims transcended that of Muslims.<sup>6</sup> Therefore, appropriate rules must be created for the non-Muslims to show their rights and obligations in the Islamic State, and to enable them to live in peace, and participate in public life with the Muslims, since all are citizens in the Islamic

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<sup>5</sup> Analogy: this developed from the Qur'ān and *Sunnah* but was stricter. When a problem arose that neither the Qur'ān nor the example of Muhammad could resolve, then an attempt was made to find an analogous situation in which a clear determination had already been made.

<sup>6</sup> Armstrong, Karen, *A History of Jerusalem One City, Three Faiths*, Harper Collins Publishers, (London, 1996), p. 234, (Hereinafter cited as: Armstrong, *A History of Jerusalem*).

State. With such regulations in place prosperity and the development of the State and mutual understanding would result, rather than conflict and hatred between them.

## **2.4 Treatment of non-Muslims**

In general, the basis of rules for the treatment of non-Muslims under Muslim rule is sought in the divine guidance as revealed in the Qur'ān, and in the practice of Prophet Muhammad (PBUH) in his dealings with certain non-Muslim communities and his immediate successors in the light of that guidance. Guidelines in the Qur'ān and the *Sunnah* speak of strengthening and cementing the relationship between Muslim and non-Muslim citizens.

### **2.4.1 Guidelines from the Qur'ān.**

The question that now arises is: Does the Qur'ān contain instructions to Muslims on how they should treat non-Muslims? To answer this question, one must know that there are a huge number of verses in the Qur'ān which determine the nature of Muslim treatment of non-Muslims, whether they are inside or outside the Islamic State. These verses also provide measures to guide Muslims in the best way to treat non-Muslims from an Islamic perspective.

#### **2.4.1.1 Justice and fair treatment**

One of the most fundamental verses to determine the nature of Muslim treatment of non-Muslims, in general, is one of the Qur'ānic verses which in translation says:

‘Allah forbids you not, with regard to those who fight you not for (your) Faith nor drive you out of your homes, from dealing kindly and justly with them: For Allah loveth those who are just. Allah only forbids you, with regard to those who fight you for (your) faith, and drive you out of your homes, and support (others) in driving you out, from turning to them (for friendship and protection). It is such as turn to them (in these circumstances) that do wrong.’<sup>7</sup>

The above verse provides Muslims with a very important and key concept in regard to their treatment of non-Muslims. Allah does not prevent Muslims from establishing good relationships with non-Muslims. Allah clearly says that Muslim treatment of non-Muslims should be based on principles of good relationship and justice, especially with those who have declared peace towards Muslims and do not fight with them. Therefore, according to the above verse, Muslims are asked to deal with non-Muslims kindly and justly unless the latter are out to destroy Muslims and their Faith. Al-Tabarī (died 310 AH /922 AD), in his attempt to interpret the above verses, mentioned several options to which this verse could apply. He came to the conclusion that the most accurate understanding of this verse was that Muslims should be just, fair, and have the best relationship with those non-Muslims who did not fight against Muslims on account of religion and did not drive Muslims from their homes. This included people of all faiths and sects. Support of this correct opinion came from the story of Asmā’ with her mother, which will be mentioned later. Al-Tabarī adds that Allah ordered Muslims to treat non-Muslims kindly and justly. Allah’s orders are generalised with no particular exclusion of any group or religion. Furthermore, on the meaning ‘... For Allah loveth those who are just’ he

<sup>7</sup> Qur’ān. *al-Mumtahana* 8-9.

لَا يَنْهَاكُمُ اللَّهُ عَنِ الَّذِينَ لَمْ يُقَاتِلُوكُمْ فِي الدِّينِ وَلَمْ يُخْرِجُوكُمْ مِنْ دِيَارِكُمْ أَنْ تَبَرُّوهُمْ وَتُقْسِطُوا إِلَيْهِمْ إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ \* إِنَّمَا يَنْهَاكُمُ اللَّهُ عَنِ الَّذِينَ قَاتَلُوكُمْ فِي الدِّينِ وَأَخْرَجُوكُمْ مِنْ دِيَارِكُمْ وَظَاهَرُوا عَلَى إِخْرَاجِكُمْ أَنْ تَوَلَّوهُمْ وَمَنْ يَتَوَلَّهُمْ فَأُولَئِكَ هُمُ الظَّالِمُونَ



comments that Allah loves those who treat people justly and kindly. Al-Tabarī concluded by saying that Allah had excluded from the above order those who caused harm toward and waged war against Muslims, and warned Muslims not to be supporters and allies to those groups; whoever supported such groups would be disobeying the command of Allah.<sup>8</sup>

Al-Qurtubī (died 761AH /1360 AD) commented that this verse was permission from Allah to establish good relationship with non-Muslims, especially those who did not treat Muslims as enemies,<sup>9</sup> and those who did not wage war against Muslims. He agrees with Ibn al-‘Arabī (died 543 AH /1148 AD) who interpreted the meaning of ‘... just with them’ (in Arabic *tuqsitū*) in a totally different way from other Qur’anic interpreters when he comments that this terms does not actually imply being just with the non-Muslims, as it appears in the above translation.<sup>10</sup> According to them, *Tuqsitū*, means supporting non-Muslims financially as a means of good relations, because, by virtue of another verse Muslims justice is obligatory towards anybody whether they be friends or enemies.

Al-Zamakhsharī (died 538 AH /1143 AD) interpreted the above verses thus; he said that Allah had given permission to Muslims to deal justly with non-Muslims who did

<sup>8</sup> Al-Tabarī, Abū Ja‘far Muhammad Ibn Jarīr, *Tafsīr al-Tabarī, al-Musammā Jāmi‘ al-Bayān fī Ta‘wīl al-Qur‘ān*, Manshūrāt Muhammad ‘Alī Baydūn, Dār al-Kutub al-‘Ilmiya, (Beirut 1420 AH /1999 AD), 3<sup>RD</sup> Edition, Vol.12, pp. 62-63, (Hereinafter cited as: Al-Tabarī, *Tafsīr al-Tabarī*).

<sup>9</sup> Al-Qurtubī, Abū ‘Abdellah Muhmmad, *al-Jāmi‘ li Ahkām al-Qur‘ān*, Introduced by al-Mīs Kh. Reviewed by Jamīl S. Commented on it’s Ahādīth by al-‘ashā ‘A. Dār al-Fikr (Beirut 1419 AH/ 1998 AD), Vol. 9, pp. 53-54. (Hereinafter cited as: Al-Qurtubī, *al-Jāmi‘*).

<sup>10</sup> Ibn al-‘Arabī, Abū Bakr Muhammad, *Ahkām al-Qur‘ān*, Edited by ‘Atā M. Manshūrāt Muhammad ‘Alī Baydūn, Dār al-Kutub al-‘Ilmiya, (Beirut 1416 AH /1996 AD), Vol. 4, p. 228. (Hereinafter cited as: Ibn al-‘Arabī, *Ahkām al-Qur‘ān*) See also Al-Qurtubī, *al-Jāmi‘*, *op. cit.*, Vol. 9, pp.53-54.

not wage war against Muslims. However, Allah in his permission excluded those who caused harm to Muslims and waged war against them. The interpretation of to be ‘... just with them’ (in Arabic *tuqṣitū*) means to treat non-Muslims justly and not oppress them.<sup>11</sup>

Al-Rāzī (died 604AH /1207AD) agrees with the previous interpreters and adds that the above verse is a licence to permit the concept of good relations with non-Muslims. In interpreting the part of verse to be ‘... just with them’, Al-Rāzī quotes Ibn ‘Abbās where the latter considers it as meaning to have a good relationship with them. Al-Rāzī concludes his interpretation to this verse by quoting Muqātil when he comments on the part of the verse ‘.... For Allah loveth those who are just’, in saying that Muslims must adhere to agreements with non-Muslims and treat them justly.<sup>12</sup>

Ibn Kathīr (died 774 AH /1372 AD), in his attempts to interpret this verse, said that it contained a permission to perform good deeds with those who did not fight Muslims in the matter of religion, or drive them from their homes. And that it also asked Muslims to deal with non-Muslims kindly, justly and equitably.<sup>13</sup>

<sup>11</sup> Al-Zamakhsharī, Abū al-Qāsim Jārallah Mahmūd, *Tafsīr al-Kashāf ‘An Haqā’iq Ghawās al-Tanzīl wa ‘Uṭwn al-Aqāwīl fī Wjūh al-Ta’wīl*, Edited by Shāhīn M. Manshūrāt Muhammad ‘Alī Baydūn, Dār al-Kutub al-‘Ilmiya, (Beirut 1415 AH/ 1995 AD), 1<sup>ST</sup> Edition, Vol. 4, pp. 503-504. (Hereinafter cited as: Al-Zamakhsharī, *Tafsīr al-Kashāf*)

<sup>12</sup> Al-Rāzī, Fakhr al-Dīn Muhammad Ibn ‘Umar, *al-Tafsīr al-Kabīr aw Maḥāṭib al-Ghaib*, Dār al-Kutub al-‘Ilmiya, (Beirut 1411AH/ 1990 AD), 1<sup>ST</sup> Edition, Vol. 15.p.263, (Hereinafter cited as: Al-Rāzī, *al-Tafsīr al-Kabīr*).

<sup>13</sup> Ibn Kathīr, Abū al-Fidā’ Ismā‘īl, *Tafsīr al-Qur’ān al-‘Azīm*, Edited by al-Arnā’ūt ‘A. Maktabat Dār al-Salām, (Riyadh, 1414 AH /1994 AD), 1<sup>ST</sup> Edition, Vol. 4, pp. 448-449. (Hereinafter cited as: Ibn Kathīr, *Tafsīr al-Qur’ān al-‘Azīm*) See also Ibn Kathīr, Abū al-Fidā’ Ismā‘īl, *Tafsīr Ibn Kathīr*, Abridged by group of scholars under the supervision of Shaykh Safiur-Rahman al-

Qutb, (died 1386 AH /1966 AD), a well-known modern Egyptian Muslim thinker and a Qur'ān interpreter, discussing the above verse said that this good and just relationship would not be disturbed. Except where there was aggression that must be dealt with, or when expecting the breach of a truce, or where there was an obstacle in the face of delivering the message of Islam, shackling the freedom of religion. Other than that, the treatment should be based on peace, love, and justice for all mankind.<sup>14</sup>

In the above verse, the general rule for the relationship between Muslims and non-Muslims is very well and clearly spelled out, entailing two important observations. Firstly, it is clearly stated that the basis of the treatment between Muslims and non-Muslims should be justice and kindness, i.e. peaceful co-existence with non-Muslims. It is also obvious that deviation from the basic rule of friendship and a peaceful co-existence would only be justified in certain exceptional situations. According to the verse, these reasons include, for example, fighting Muslims because of their faith, or trying to obliterate or destroy the Muslim religious identity. This exception is very logical being based as it is on the concept of self-preservation. The verse mentioned a second exception; driving Muslims from their homes, by using violence and hostility against them, or supporting others in driving Muslims from their homes. The second observation is that there are two keywords used in the verse shown at the beginning of this section, 'kindly' and 'justly'. The second term to be just with them, in addition to what has been said, means that Muslims cannot persecute non-Muslims, nor take away their rights or hurt them simply because they

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Mubarakpuri, Dārussalām Publishers and Distributors, (Houston 2000 AD), 1<sup>ST</sup> Edition, Vol. 9, pp. 595-598 (Hereinafter cited as: Ibn Kathīr, *Tafsīr Ibn Kathīr*).

<sup>14</sup> Qutb, Sayyid, *Fī Zilāl al-Qur'ān*, Dār al-Shurūq, ((Beirut 1422 AH /2001 AD), 30<sup>TH</sup> Edition, Vol. 6, pp. 3544-3545, (Hereinafter cited as: Qutb, *Fī Zilāl al-Qur'ān*).

are non-Muslims. The first term to be kind, in Arabic *tabarrūhum*, comes from the Arabic word *Birr*. This word does not only imply kindness or justice, it goes beyond that. The word *Birr* in Arabic has no exact equivalent meaning in English. The Qur'ān specifically uses the word '*Birr*' to be the basis of the relationship between Muslims and non-Muslims. The word is normally used to describe the way a Muslim should deal with his/her parents. This word encompasses everything that is good in a relationship. Muslim scholars, for example Mawlawī, a Lebanese scholar and thinker, said that '*Birr*' is the foundation of the relationship between Muslims and non-Muslims.<sup>15</sup> It is derived from everything that is good, decent, respectable and compassionate.

To clarify this further; in the Islamic literature, especially in the Prophetic traditions, Prophet Muhammad uses the exact term *birr* in the relationship between a person and his parents. A person needs to *birr* his parents, a treatment which is more than kindness. Thus it is obvious that, on the basis of this general rule in the Qur'ān, any non-Muslim who accepts the need for peaceful co-existence with Muslims, to be treated with *birr*, i.e. justly and kindly. Imām al-Bukhārī (died 256AH /860 AD) reported that Asmā' the daughter of Abū Bakr said: 'My mother came to me while she was still a polytheist, so I asked Allah's Messenger,

'My mother, who is ill-disposed to Islam, has come to visit me. She wants something from me. Shall I maintain [good] relations with her?' the Prophet replied, 'Yes, maintain [good] relations with your mother.'<sup>16</sup>

<sup>15</sup> Mawlawī, Faīsal, *al-Mafāhīm al-Asāsīya lil Da'wah al-Islāmīh fī Bilād al-Gharb*, In *Risālit al-Muslimīn fī bilād al-Gharb*, (ed.) Abū-Shamālāh M. 'A, Dār al-Amal, (Irbid-Jordan 1421AH/ 2000 AD), p. 202.

<sup>16</sup> Al-Bukhārī, Imām 'Abū Abdul Allah Muhammad, *Sahīh Al-Bukhārī*, Dār Ishbīlyya (Riyadh), n.d, Vol.3, Part. 7, p. 71. (Hereinafter cited as: Al-Bukhārī, *Sahīh Al-Bukhārī*) See also Abū Dāwūd,

Imām al-Qarāfi (died 684 AH /1285 AD), a well-known *Mālikī* jurist, considered that *Birr* or fair treatment to non-Muslims consists of the following:

‘Showing kindness to their weak and helping their poor and destitute, and feeding their hungry, clothing their naked, and uttering kind words to them from the position of grace and mercy and not from the position of fear and disgrace and removing their hardship as their neighbours if you have power to remove it, praying for their guidance so that they can become happy and fortunate people, giving them good advice in all their affairs – the affairs of this world and the hereafter and looking after their interest in their absence. If anyone hurts them and deprives them of their property or family, possessions or their rights, you should help them by removing their persecution and make sure to restore all their rights back to them’.<sup>17</sup>

On the other hand, it is also reasonable to say that those who prompt hostility or hatred against Muslims and try to destroy them cannot expect to have this kind of good or warm friendship. This does not only apply to non-Muslims; if a Muslim violates the dictates of Islam, he/she will be punished. Likewise a non-Muslim, who violates the terms of agreement with Muslims and the Muslim State, should also be punished. The issue is no more than obeying the rules and complying with them.

The protection, rights and security of non-Muslims in an Islamic State are derived from the principle of human brotherhood as all mankind are the creation of Allah, the only God, without discrimination between Muslims and non-Muslims. Islam is a religion that enjoins and promotes universal brotherhood, peace and unity among

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Abī Sulaīmān Ibn al-Ash‘ath, *Sunan Abī Dāwūd*, Dār al-Jīl, (Beirut 1408 AH /1988 AD), Vol.2, p. 130, Hadīth No: 1668 (Hereinafter cited as: Abū Dāwūd, *Sunan Abī Dāwūd*).

<sup>17</sup> Al-Qarāfi, Abū al-‘Abbās Ahmad Ibn Idrīs, *al-Furūq wa Anwār al-Burūq fī Anwā’ al-Furūq*, Edited by al-Mansūr Kh. Manshūrāt Muhammad ‘Alī Baydūn, Dār al-Kutub al-‘Ilmiya, (Beirut 1418 AH/ 1998 AD), 1<sup>ST</sup> Edition, Vol. 3, p. 31, (Hereinafter cited as: Al-Qarāfi, *al-Furūq*).

mankind. The only difference between people that the Qur'ān recognizes is in piety towards Allah (*taqwā*), as one of the Qur'ānic verses which in translation says:

'O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise each other). Verily the most honoured of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full Knowledge and is well acquainted (with all things)'.<sup>18</sup>

The above verse shows how Islam honours mankind, especially Believers in Allah, in that mankind is enabled to promote peace, unity and universal brotherhood. The researcher, however, would like to ascertain that justice (*ʿAdl*) must be seen to be done toward both Muslims and non-Muslim alike. Islam calls for justice for all mankind, irrespective of their creed, colour, race and nationality and not only Muslims; as in one of the Qur'ānic verses in translation says:

'O ye who believe! Stand out firmly for Allah, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to Piety: and fear Allah. For Allah is well acquainted with all that ye do'.<sup>19</sup>

This verse implies that implementing justice and acting righteously in a favourable or neutral atmosphere is meritorious enough; however, the real test comes when one has to do justice against the people one hates or for whom one has an aversion. In this connection it is worthwhile underlining that the verse quoted was revealed to deal justly with the Jews in *Madīnah*, when the Prophet went to the Jews asking them to contribute to the blood money of the two men from Banū 'Āmer who had been killed

<sup>18</sup> Qur'ān, *Al-Hujurāt*: 13.

‘يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ’

<sup>19</sup> Qur'ān, *al-Mā'idah*: 8.

يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ لِلَّهِ شُهَدَاءَ بِالْقِسْطِ وَلَا يَجْرِمَنَّكُمْ شَنَاٰنُ قَوْمٍ عَلَىٰ أَلَّا تَعْدِلُوا اعْدِلُوا هُوَ أَقْرَبُ لِلتَّقْوَىٰ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ خَبِيرٌ بِمَا تَعْمَلُونَ

by ‘Āmir Ibn Umayyah. In his presence the Jews pretended that they had accepted that they contribute, but behind his back they were plotting ways to kill the Prophet. Allah informed the Prophet of their intention, and the Prophet (PBUH) was very angry for their betrayal, but Allah revealed the above verse asking him not to use this incident to act unjustly against the Jews.<sup>20</sup>

Al-Zamakhsharī interpreted this verse by saying that Muslims should not act unjustly against non-Muslims by killing their children and women or breaking agreements with them, just because they hated them. He concludes; despite the fact that non-Muslims are enemies of Allah, Islam has strongly commanded Muslims to be just in their dealing with non-Muslims.<sup>21</sup> Al-Qurtubī added that, even if non-Muslims killed Muslims women and children and caused great sadness in the hearts of the Muslims, Muslims were not allowed to imitate them, as this would prevent the cause of justice taking place.<sup>22</sup>

According to Ibn Kathīr, he interpreted this verse by saying that a Muslim should not let the hatred of a particular group a cause for injustice.<sup>23</sup> Justice should be applicable to everybody, friends and enemies. For Allah says ‘be just: that is next to Piety’. Abū-Zahra, an Egyptian scholar, explains that human relations as regulated by Islam are based on justice no matter whether such relations are with a loyal or a hostile

<sup>20</sup> Ibn al-‘Arabī, *Ahkām al-Qur’ān*, *op. cit.*, Vol. 2, p. 81. See also al-Tabarī, *Tafsīr al-Tabarī*, *op. cit.*, Vol. 4, p.483.

<sup>21</sup> Al-Zamakhsharī, *Tafsīr al-Kashāf*, *op. cit.*, Vol. 1, p. 600.

<sup>22</sup> Al-Qurtubī, *al-Jāmi’*, *op. cit.*, Vol.3, pp. 70-71,

<sup>23</sup> Ibn Kathīr, *Tafsīr al-Qur’ān al-‘Azīm*, *op. cit.*, Vol. 2, p.44.

group.<sup>24</sup> He refers to the above verse, and stresses the fact that justice should be more conducive to piety. It can be concluded that this verse and the preceding verses set up the Islamic concept in defining the general rule for Muslim relations and the way of treatment of non-Muslims. If some non-Muslims are hostile, cruel, or mischievous, it is not allowed for a Muslim who is in power to deviate even slightly from the path of justice in dealing with them. To conclude, the Qur'ān urges Muslims to base their relations with non-Muslims on peaceful cooperation, and warns them against placing religious solidarity over covenanted rights and the principles of justice.

#### 2.4.1.2 The People of the Book

It should be noted that the verses of the Qur'ān dealing with non-Muslims divide them into two main categories. The first category is the idol worshipper, while the second is the People of the Book. This chapter will be concentrating on the latter. The title, the People of the Book (*Ahl al-Kitāb*) is given by the Qur'ān to Jews and Christians. The significance of this term is that the word *Al-Kitāb* itself in Arabic means the Book. The Book in Islamic terminology refers to scriptures. The People of the Book have been given a special position in the Qur'ān, since their religions were originally based on revealed books such as the Torah and the Bible—. This in itself is the greatest manifestation of the special status given to this group of non-Muslims,

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<sup>24</sup> Abū-Zahra, Muhammad, *International Relations in Islam*, Al-Azhar Magazine 1.1979 AD Vol. 51(2), pp 59-101, (Hereinafter cites as: Abū-Zahra, *International Relations*)



namely Jews and Christians.<sup>25</sup> As a result, they are closer to Muslims than those who are unbelievers in Allah.

The common beliefs and values of the People of the Book with Muslims can be summarized in four basic beliefs<sup>26</sup> as follows. Firstly, the three main religions Judaism, Christianity and Islam believe in one creator. They believe that God has created the entire universe and that with His omnipotence He dominates all that exists. Secondly, the three religions believe in Prophethood, in that the Creator has sent messengers or Prophets throughout history to guide humanity, to reconcile them to their Creator and to guide them into the path of truth. Thirdly, these three faiths also believe in divine revelations, the scriptures (holy books) that have been revealed to those Prophets in order to guide humanity. There may be differences as to which scriptures are relatively more authentic, and which remain without change. But still, the whole notion of belief in scriptures is found in the three faiths. Fourthly, these three faiths believe in the law of punishment and to which they are accountable here, and also they believe in the hereafter. They believe that people in the hereafter will be rewarded or punished depending on their proper and correct belief and their compliance with the moral code which was echoed by all the Prophets throughout history. In that sense, it could be said that, regardless of the differences, the areas

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<sup>25</sup> Al-Qaradāwy, Yūsuf, *al-Infītāh 'Alā al-Gharb, Muqtadayātuhi wa Shrūtuhu*. in *Risālit al-Muslimīn fī bilād al-Gharb*, (ed.) Abū- Shamālah M. 'A, Dār al- Amal, (Irbed-Jordan 1421AH / 2000 AD), p. 17, (Hereinafter cited as: Al-Qaradāwy, *al-Infītāh*).

<sup>26</sup> Al-Fārūqī, Ismā'īl, *Islam and other faiths*, Edited by Siddiqui, A. the Islamic foundation and the International Institute of Islamic Thought (Leicester 1419 AH /1998 AD), pp.211-236, (Hereinafter cited as: Al-Fārūqī, *Islam and other faiths*), See also Anees, Munawar Ahmad, *The Dialogue of History*, in *Christian-Muslim Relations, Yesterday, Today, Tomorrow*, (ed) Davies M. W, Grey Seal, (London 1991 AD), pp.7-33.

described above provide a ground for commonality between Muslims on the one hand and Jews and Christians, the People of the Book, on the other. The People of the Book are, therefore, different from those who are unbelievers or atheists. As a religion for peace, Islam sets out the following injunctions that Muslims should observe in their treatment of the People of the Book; the Qur'ān says in respect of *Ahl Al-Kitāb*:

‘And dispute ye not with the People of the Book, except in the best way, unless it be with those of them who do wrong but say ‘we believe in the Revelation which has come down to us and in that which came down to you’.<sup>27</sup>

According to this verse, Muslims should find a true common ground of belief, as stated in the latter part of the verse. Al-Qaradāwy, a well-known Egyptian scholar, argues that Muslims are required to deal with *Ahl al-Kitāb* not only in a good way but in the best way.<sup>28</sup> He believes that the Qur'ān granted them a special position by referring to them, in several citations, as *Ahl al-Kitāb* rather than in naming them Jews and Christians. The Holy Qur'ān points to a sign of friendship when a verse tells Muslims that they are allowed to eat the food of Christians and Jews, while prohibiting the food of others such as Magians (*Majūs*) and *Sabians*; the Qur'ān says:

‘This day are (all) things good and pure made lawful unto you. The food of the people of the Book is lawful unto you and yours is lawful unto them. (Lawful unto you in marriage) chaste women who are believers, but also chaste women among the People of the Book, revealed before your time’.<sup>29</sup>

<sup>27</sup> Qur'ān, *al-Ankabūt*: 46.

<sup>28</sup> Al-Qaradāwy, *al-Infītāh*, *op. cit.*, pp. 7-29.

<sup>29</sup> Qur'ān, *al-Mā'idah*: 5.

الْيَوْمَ أُحِلَّ لَكُمْ الطَّيِّبَاتُ وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حَلَالٌ لَكُمْ وَطَعَامُكُمْ حَلَالٌ لَهُمْ وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ

In the light of the above verse, marriage is permitted with the People of the Book. A Muslim man may marry a woman from the People of the Book on the same terms as he would marry a Muslim woman. Their different religions should not affect their relationship. Such a case, however, is not applicable to others such as Pagans, Hindus, etc. In Islam, marriage is considered as a divine covenant; mercy, respect and love should be outstanding characteristics of the relationship between a husband and a wife. Even after marriage, the non-Muslim women may choose to observe her faith and celebrate her festivals without any hindrance from the husband.<sup>30</sup> This shows the tolerance of Islam toward People of the Book, especially in marrying someone of a different religion, one who will be the Muslim's partner throughout life, the mother of his children and the one with whom he shares his inmost thoughts. As Qur'ānic verse in translation says:

They are your garments and ye are their garments'.<sup>31</sup>

A verse in the Qur'ān also translates thus:

‘Among His Signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquillity with them, and He has put love and mercy between your (hearts). Verily in these are Signs for those who reflect.’<sup>32</sup>

<sup>30</sup> Hamīdullah, Muhammad, *Introduction to Islam*, El-Falāh for Translation, Publishing and Distribution, (Cairo 1418AH/ 1997 AD), p.304, (Hereinafter cited as: Hamīdullah, *Introduction to Islam*).

<sup>31</sup> Qur'ān, *al-Baqarah*: 187.

هُنَّ لِيَاسٌ لَكُمْ وَأَنْتُمْ لِيَاسٌ لَهُنَّ

<sup>32</sup> Qur'ān, *ar-Rūm*.: 21.

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

The significance of the People of the Book in Islam is strongly shown at the beginning of Islamic history when Muslims were a minority in Makka. During that time, there was a prolonged and deadly armed conflict between the two powerful northern neighbours of the Arab peninsula: the Byzantine and the Persian empires.<sup>33</sup> In 614 A.D, Parwez, a Persian leader, occupied Jerusalem and proclaimed victory over the Roman Empire. One might expect Muslims to be happy for this victory, as they are nearer geographically to Persia than to Rome. However, Persians were Zoroastrians and Romans were from the People of the Book. The Makkans identified themselves with the Persians, while the Muslims - who numbered a few hundred at that time - sympathized with the Christians, because the Prophet had recognized Jesus as a true Prophet of Allah, the Bible as originally based on divine revelation, and Jerusalem as a holy city. The Romans were recognised as the People of the Book. Therefore Muslims were unhappy about the defeat, whereas the Makkan unbelievers, who sympathized with the Persians, were elated at the victory of Parwez. They started insulting the Muslims and ridiculing them because they were on the losing side. The Qur'ān reacted to this situation and prophesied that both the Christian defeat at the hands of the Persians and the pagan jubulations at those defeats would be short-lived. In this context came the revelation from Allah:

‘The Romans have been defeated. In the land close by: but they, (even) after (This) defeat, will soon be victorious. Within a few years, To Allah will be the Command in the Past and in the Future: On that day With the help of Allah, shall the believers rejoice. He gives victory to whom He will, and He is exalted in Might, Most Merciful’.<sup>34</sup>

<sup>33</sup> : Alī, Muhammad Mohar, *Sīrat al-Nabī and the Orientalists*, King Fahid Complex for the Printing of the Holy Qur'ān and Centre for the Service of Sunnah and Sīrāh (Madina, 1417 AH/ 1997AD), 1<sup>ST</sup> Edition, Vol. IB, pp 669-70.

<sup>34</sup> Qur'ān, *ar-Rūm*: 2-5.

### 2.4.1.3 Loyalty and Allianceship

Fair treatment and cooperation with non-Muslims are not the same as loyalty. Rather are these practical ways for promoting good and fighting evil. There is a distortion in the understanding of loyalty by some who expand its meaning to include cooperation. The loyalty that Qur'ān warns about is that where a Muslim favours non-Muslims against Muslims in granting love and support. This issue is clarified in several verses in the Qur'ān. One of these verses, in which the translation says:

'Let not the Believers Take for allies or helpers Unbelievers rather than Believers'.<sup>35</sup>

And also:

'To the hypocrites give the good tidings that there is for them but a grievous penalty. Those who take for Allianceship unbelievers rather than believers: Is it honour they seek among them? Nay, all honour is with Allah.'<sup>36</sup>

In his explanation of these verses, al-Tabarī said that they prohibit Muslims from being like non-Muslims in their morals and values, and from preferring non-Muslims to Muslims. He added that loyalty means supporting non-believers in their efforts against Muslims, by spying on the Muslim State to the benefit of, for instance, its rivals and enemies. This type of loyalty is at the expense of Muslims. There is a big

غَلَبَتِ الرُّومُ\* فِي أَدْنَى الْأَرْضِ وَهُمْ مِّنْ بَعْدِ عَلَيْهِمْ سَيِّئَاتُ\* فِي بَضْعِ سِنِينَ لِلَّهِ الْأَمْرُ مِنْ قَبْلُ وَمِنْ بَعْدِ وَيَوْمَئِذٍ يَفْرَحُ الْمُؤْمِنُونَ \*

<sup>35</sup> Qur'ān āl- 'Imrān: 28.

لَا يَتَّخِذِ الْمُؤْمِنُونَ الْكَافِرِينَ أَوْلِيَاءَ مِنْ دُونِ الْمُؤْمِنِينَ

<sup>36</sup> Qur'ān An-Nisā': 138-139.

بَشِّرِ الْمُنَافِقِينَ بِأَنَّ لَهُمْ عَذَابًا أَلِيمًا \* الَّذِينَ يَتَّخِذُونَ الْكَافِرِينَ أَوْلِيَاءَ مِنْ دُونِ الْمُؤْمِنِينَ أَلِيبَتُهُمْ عِنْدَهُمُ الْعِزَّةُ فَإِنَّ الْعِزَّةَ لِلَّهِ جَمِيعًا

difference between this and cooperation in the interests of Muslims and for the collective well-being.<sup>37</sup>

The question which arises here is how can Muslims fulfil the meaning of *birr*, love, kindness, affection, and good treatment regarding non-Muslims, when the Qur'ān itself forbids loyalty to the latter and disagrees with Muslims who take on non-Muslims as helpers, allies, and supporters, as illustrated in such verses as the following:

'O ye who believe! Take not the Jews and the Christians for your allies. They are but allies to each other. And he amongst you that turns to them (for alliance) is of them. Verily Allah guideth not an unjust people'.<sup>38</sup>

In an attempt to answer the above question, al-Qaradāwy pointed out that these verses are not unconditional, to be applied to every Jew, Christian, or non-Muslim. Interpreting them in this manner contradicts the injunctions of the Qur'ān that enjoin affection and kindness to the good and peace-loving peoples of every religion.<sup>39</sup> Most Qur'ānic interpreters in their interpretation of this verse have linked their interpretation with the reason behind its revelation. For example, Al-Zamakhsharī and Ibn Kathīr<sup>40</sup> commented on the above verse by saying Muslims should not take on Christians and Jews as supporters or even support them as if they were Muslims.

<sup>37</sup> Al-Tabarī, *Tafsīr al-Tabarī*, op. cit., Vol. 3, pp. 227-229.

<sup>38</sup> Qur'ān, *al-Mā'idah*: 51.

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَتَّخِذُوا الْيَهُودَ وَالنَّصَارَىٰ أَوْلِيَاءَ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ وَمَنْ يَتَوَلَّهُمْ فَإِنَّهُمْ مِنْكُمْ فَإِنَّهُ مِنْهُمْ إِنَّ اللَّهَ لَا يَهْدِي الْقَوْمَ  
الظَّالِمِينَ

<sup>39</sup> Al-Qaradāwy, Yūsuf, *The Lawful and the Prohibited in Islam (al-Halāl wal-Harām fil Islam)*, El-Falāh for Translation, Publishing and distributing, (Cairo 1418 AH / 1997 AD), p. 453.

<sup>40</sup> Ibn Kathīr, *Tafsīr al-Qur'ān al-'Azīm*, op. cit., Vol. 2, p. 94.

Al-Zamakhsharī explained this by quoting that they are ‘allies to each other’.<sup>41</sup> Both then mentioned that the reason behind the revelation is that ‘Ubāda Ibn al-Sāmit abandoned his Jewish allies. However, when the Prophet asked ‘Abdullah Ibn Ubay to do the same, he refused by saying that he feared that the Jews might defeat the Muslims; he wanted to be in favour with Jews and Christians and use this favour for their benefit in that eventuality.<sup>42</sup> Al-Rāzī agreed with Al-Zamakhsharī on the reason of revelation, adding that the meaning of ‘not to take Jews and the Christians for your allies’ is not to rely on asking them for support.<sup>43</sup> While Al-Qurtubī adds that anyone who take on Jews and Christians as supporters against Muslims is to be considered as being one of the Jews and Christians. He mentioned another two reasons for the revelations,<sup>44</sup> which Ibn al-Kathīr agreed with.<sup>45</sup> The first was about two Muslim men; after seeing the defeat of Muslims in the battle of *Uhud*,<sup>46</sup> one decided to become an ally to the Jews, while the other decided to become an ally to the Christians. As for the second reason for revelation; Al-Qurtubī said that it was revealed after Abū-Lubābah’s incident that he does not mention. The researcher believes that this verse was revealed at a specific incident, prohibiting Muslims from taking on Jews and Christians as supporters against their own faith, this can clearly be seen from the reasons behind the revelation, However, the researcher believes that all stem from the same concept.

<sup>41</sup> Al-Zamakhsharī, *Tafsīr al-Kashāf*, *op. cit.*, Vol. 1, p. 629.

<sup>42</sup> Al-Zamakhsharī, *Tafsīr al-Kashāf*, *op. cit.*, Vol. 1, pp. 629-630, See also Ibn Kathīr, *Tafsīr al-Qur’ān al-‘Azīm*, *op. cit.*, Vol. 2, pp. 95-96.

<sup>43</sup> Al-Rāzī, *al-Tafsīr al-Kabīr*, *op. cit.*, Vol. 6, p.15

<sup>44</sup> Al-Qurtubī, *al-Jāmi’*, *op. cit.*, Vol.3, pp. 157-158.

<sup>45</sup> Ibn Kathīr, *Tafsīr al-Qur’ān al-‘Azīm*, *op. cit.*, Vol. 2, pp. 95-96.

<sup>46</sup> A well-known mountain in *Madīnah*. One of the great battles in the Islamic history took place at its foot, namely is the battle of *Uhud*.

Similarly, there are other verses in the Qur'ān specific to unbelievers rather than to the People of the Book, prohibiting the Muslims from taking them on as allies against or instead of Muslims.<sup>47</sup> An-Na'im, a Sudanese scholar, claims that these sources should have been seen as having provided the necessary psychological support for the survival and cohesion of a vulnerable community of Muslims in a hostile and violent, social and physical environment.<sup>48</sup> However, it should be borne in mind that the above verse is not general in its meaning and does not include every individual Christian or Jew. If it were inclusive to everybody in that group, it would then contradict the other verses and instructions that appear in the Qur'ān, which permits kindness to those who are decent, communicate well with Muslims, and do not cause them any harm.

The above verse is made clear by the succeeding verse in the same chapter, when the Qur'ānic verse in translation says:

Those in whose hearts is a disease- Thou seest how eagerly they run about amongst them (non-Muslims), saying ' We do fear lest a change of fortune bring us disaster'. Ah! Perhaps Allah will give (Thee (Muslims)) victory, or a decision from Him then will make them regret the thoughts, which they secretly harbour in their hearts'.<sup>49</sup>

Therefore, it is very important to refer to that interpretation of the Qur'ān that is related to the reasons for revelations and the conditions under which this verse was

<sup>47</sup> Qur'ān, *āl-Imrān*: 28, *an-Nisā'*: 144, *al-Anfāl*: 72-73, *al-Twbah*: 23 and 71, and *al-Mumtahana*: 1.

<sup>48</sup> An-Na'im, 'Abdullahi Ahmed, *Toward an Islamic reformation: civil liberties, Human rights and international law*, Forwarded by Voll J. Syracuse University Press. (New York 1990 AD), pp. 144-145. (Hereinafter cited as: An-Na'im, *Toward an Islamic reformation*)

<sup>49</sup> Qur'ān, *al-Mā'idah*: 52.

فَتَرَى الَّذِينَ فِي قُلُوبِهِمْ مَرَضٌ يُسَارِعُونَ فِيهِمْ يَقُولُونَ نَخْشَى أَنْ تُصِيبَنَا دَائِرَةٌ فَعَسَى اللَّهُ أَنْ يَأْتِيَ بِالْفَتْحِ أَوْ أَمْرٍ مِنْ عِنْدِهِ فَيُضْبَحُوا عَلَى مَا أَسْرَوْا فِي أَنْفُسِهِمْ تَابِعِينَ



revealed. It deals specifically with some hypocrites who were in the ranks of the Muslims. On the surface, they would claim to be Muslims. However, they thought that it was possible that non-Muslims, who were in conflict and hostility with Muslims at that time, could gain the upper hand or even achieve victory. Therefore, they tried to secretly keep up their friendship and alliance with the non-Muslims, even if the latter were hostile, fighting or trying to obliterate Muslims. They did this in the hope that if the Muslims were victorious, they would support Muslims publicly as they saw themselves among the Muslim ranks. On the other hand, if the non-Muslims were the winners, the hypocrites would ask for protection from the Muslims, as the non-Muslims were their friends. Therefore, it is obvious that the Qur'ān is really condemning this kind of behaviour from those hypocrites who call themselves Muslims.

Yet, in spite of this, the Qur'ān did not dismiss the hope that some day there might be a reconciliation; it did not declare utter disappointment in non-Muslims but encouraged the Muslims to entertain the hope of better circumstances and of improved relationships for, in the same chapter, the Qur'ānic verse says:

'It may be that Allah will establish friendship between you and those whom ye (now) hold as enemies'.<sup>50</sup>

The above verse shows the attitudes of Islam towards those who harm Muslims. As mentioned earlier, Islam provides the right for a person to defend his rights and his

<sup>50</sup> Qur'ān. *al-Mumtahana*: 7.

existence, but there is still the appeal of returning evil with good if that will result in an improvement in relations.

It is important to mention that all these verses, both the friendly and hostile ones, are circumstantial; that is, they refer to particular incidents, individuals or groups of people. These verses did not prevent Muslims from taking on non-Muslims as allies because they were non-Muslims, but are linked to particular historical incidents where a Muslim seeks the support of Jews and Christians at the expense of his own people.

## **2.4.2 Guidelines from the *Sunnah***

From the understanding of the instructions, which was revealed in the Qur'ān, that the Prophet Muhammad started to practice these instructions through his speech and daily practice. It is logical to say that instructions without practice would result in a religion being liable to pass into mere idealism, and cease to exercise influence on the practical life of man.<sup>51</sup>

### **2.4.2.1 The migration to Abyssinia**

When the Prophet Muhammad made the call of Islam, he and his followers faced immense opposition. This turned into persecution so great that they were advised by the Prophet to migrate to Abyssinia and seek protection of the Christian king, Negus (Najāshī); the situation had become so extremely grave that by the middle of the fifth

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<sup>51</sup> Doi, 'Abdul Rahmān, *non-Muslims Under Shari'ah: Islamic Law*, Ta-Ha Publishers Ltd, (UK 1983 AD), p. 60, (Hereinafter cited as: Doi, *non-Muslims*).

year of the Prophethood was no longer tolerable.<sup>52</sup> Umm Salamah, who was amongst the group who migrated to Abyssinia, reported that:

‘When the Prophet Muhammad saw the affliction of his companions, though he escaped it because of his standing with Allah and his uncle Abū Tālib, he could not protect them. The Prophet said to his companions: ‘I propose that you migrate to Abyssinia, where there is a Christian king, well known for his justice. He is said to have not wronged any one in his kingdom and it is a friendly country, until such time as Allah shall relieve you from your distress’. Therefore his companions went to Abyssinia, being afraid of apostasy, and fled to Allah with their religion’.<sup>53</sup>

The Muslims who migrated (including 83 adult males) were hospitably treated by the Christian king and allowed to practice their religion, as Prophet Muhammad (PBUH) had expected. The first meeting between the Muslims and Christians in Abyssinia was one of gracious hospitality. This was the first migration of Islam.<sup>54</sup> Its significance lay in that it was made to a country ruled by a just Christian king. This highlights some of the most momentous principles of Islam. Firstly, at that time Muslims and Christians were not in a state of conflict and hatred; and secondly, even though Muslims had differences with Christians, the latter were viewed as being and expected to be in alliance with the Muslims against the injustice of the Makkan unbelievers. In fact the Qur’ān<sup>55</sup> and the Prophet highlighted these facts on several occasions, as will be shown later.

<sup>52</sup> Al-Mubarakpūrī, Safī-ur-Rahmān, *Ar-Raheeq Al-Makhūm (the sealed Nectar) Biography of the Noble Prophet* Supervised by Mujahid A, Dār-us-Salām Publications, (Riyadh 1416 AH / 1996 AD), 1<sup>ST</sup> Edition, pp. 99-102. (Hereinafter cited as: Al-Mubarakpūrī, *Ar-Raheeq Al-Makhūm*)

<sup>53</sup> Ibn Hishām, ‘Abdul Malik, *Al-Sīrā al-Nabawīya*, Edited by Lajnet al-Tahqīq bi Mu’asaset al-Hudā, Dār al-Taqwā, (Egypt 1420 AH/1999 AD), 1<sup>ST</sup> Edition Vol.1, p. 198, (Hereinafter cited as: Ibn Hishām, *Al-Sīrā al-Nabawīya*)

<sup>54</sup> Ibid., p.198

<sup>55</sup> For example, Qur’ān, *al-‘Ankabūt*: 46.

It is important to mention that these principles that Muslims held toward the People of the Book was what made them so favoured by the Christian king and welcomed in a Christian land. This event of Muslim migration to Abyssinia opened the first chapter in Christian- Muslim relations.

#### **2.4.2.2      The constitution of *Madīnah***

Prophet Muhammad, on his arrival in *Madīnah* from Makka, started to build a basis for the relation between the first Islamic State in *Madīnah* and its non-Muslims inhabitants. He duly began by applying the principle of good relations and cooperation. There was a substantial Jewish community in *Madīnah*, and the Prophet wrote a document concerning the immigrants (*al-Muhājirūn*) and the helpers (*al-Ansār*), in which he made an agreement between them and the Jews. This agreement spelled out the Jews' rights as non-Muslim citizens in the Islamic State. As a result, the Prophet managed to establish in *Madīnah* a multi-religious political community, based on a set of universal principles that constituted the 'constitution of *Madīnah*' (*Sahīfatul Madīnah*).

Developing a constitution to regulate the internal and external affairs of the city was one of the major contributions of the Prophet and his companions in *Madīnah*, and this can be considered a turning point to its inhabitants. This magnificent and extraordinary work was developed and administrated by the Prophet during the first year of his arrival in *Madīnah*. This work task, with its many civil, judicial, and political articles including defence and allianceship, had to be coordinated and approved by the leaders of eleven Jewish tribes, leaders of the Arab tribes in and

around the city, and by the Muslims. This constitution was based on the cooperation for good; maintaining virtue and prohibiting evil. El-‘Awaīsī asserts that the Prophet laid down the basis of relations with the Jews who lived in the heart of the Islamic State.<sup>56</sup>

Regarded as the first ever written constitution, the document stated the reciprocal obligations as follows.<sup>57</sup>

‘In the name of Allah the compassionate, the merciful; this is a document from Muhammad the Prophet (governing the relations) between the believers and the Muslims of *Quraysh* and *Yathrib* and those who are to follow and join them ... The Jews shall contribute to the cost of war so long as they are fighting alongside the believers. The Jews of the Banū ‘Awf are one community with the believers (the Jews have their religion and the Muslims have theirs), their freemen and their persons except those who behave unjustly and sinfully, for they hurt only themselves and their families. The same applies to the Jews of the Banū al-Najjār, Banū al-Hārith, Banū Sa‘ida, Banū Jusham, Banū al-Aws, Banū Tha‘labah, and the Jafna, a clan of the Tha‘labah and the Banū al-Shutayba. Loyalty is a protection against treachery. The freemen of Tha‘labah are as themselves. The close friends of the Jews are as themselves. None of them shall go out to war save with the permission of Muhammad, but anyone shall not be prevented from taking revenge for a wound. He who slays a man without warning slays himself and his household, unless it be one who has wronged him, for Allah will accept that. The Jews must bear their expenses and the Muslims their expenses. Each must help the other against anyone who attacks the people of this document. They must seek mutual advice and consultation, and loyalty is a protection against treachery. A man is not liable for his ally’s misdeeds. The wronged must be helped. The Jews must pay with the believers so long as war lasts. *Yathrib* shall be a sanctuary for the people of his document. A stranger under protection shall be as his host doing no harm and committing no crime. A woman shall only be given protection with the consent of her family. If any dispute or controversy likely to cause trouble should arise it must be referred to Allah and to Muhammad the apostle of Allah. Allah accepts what is nearest to piety and goodness in this document. *Quraysh* and

<sup>56</sup> El-‘Awaīsī, A, ‘*Umar’s assurance of safety to the people of Aelia (Jerusalem) a critical analytical study of the historical sources*, Journal of Islamic Jerusalem studies (Vol.3, No: 2, summer 2000 AD), p. 64, (Hereinafter cited as El-‘Awaīsī, ‘*Umar’s assurance*),

<sup>57</sup> Ibn Hishām, *Al-Sīrā al-Nabawīya*, op. cit., Vol. 2, pp 108-110

their helpers shall not be given protection. The contracting parties are bound to help one another against any attack on *Yathrib*. If they are called to make peace and maintain it they must do so; and if they make a similar demand on the Muslims it must be carried out except in the case of a holy war. Every one shall have his portion from the side to which he belongs; the Jews of al-Aws, their freemen and themselves have the same standing with the people of this document in pure loyalty from the people of this document.

Loyalty is a protection against treachery: He who acquires aught acquires it for himself. Allah approves of this document. This deed will not protect the unjust and the sinner. The man who goes forth to fight and the man who stays at home in the city is safe unless he has been unjust and sinned. Allah is the protector of the good and Allah-fearing man and Muhammad is the apostle of Allah.<sup>58</sup>

The various rules enunciated in the constitution were aimed at maintaining peace and cooperation, protecting the life and property of the inhabitants of *Madīnah*, fighting aggression and injustice regardless of tribal or religious affiliations, and ensuring

<sup>58</sup> Ibn Hishām, *Al-Sīrā al-Nabawīya*, op. cit., Vol. 2, pp. 108-110.

بسم الله الرحمن الرحيم ، هذا كتاب من محمد النبي صلى الله عليه وسلم ، بين المؤمنين والمسلمين من قريش ويثرب ، ومن تبعهم ، فلحق بهم... وإن اليهود ينفقون مع المؤمنين ما داموا محاربين ؛ وإن يهود بني عوف أمة مع المؤمنين . لليهود دينهم ، وللمسلمين دينهم ، مواليهم وأنفسهم ، إلا من ظلم وأثم ، فإنه لا يوتغ إلا نفسه ، وأهل بيته ، وإن يهود بني النجار مثل ما يهود بني عوف ؛ وإن يهود بني الحارث مثل ما يهود بني عوف ؛ وإن يهود بني ساعدة مثل ما يهود بني عوف ؛ وإن يهود بني جشم مثل ما يهود بني عوف ؛ وإن يهود بني الأوس مثل ما يهود بني عوف ؛ وإن يهود بني ثعلبة مثل ما يهود بني عوف ؛ إلا من ظلم وأثم ، فإنه لا يوتغ إلا نفسه وأهل بيته ؛ وإن جفنة بطن من ثعلبة كأنفسهم ؛ وإن ثنبي الشطيبة مثل ما يهود بني عوف . وإن أثير دون الإثم ؛ وإن موالي ثعلبة كأنفسهم ؛ وإن بطانة يهود كأنفسهم ؛ وإنه لا يخرج منهم أحد إلا بإذن محمد صلى الله عليه وسلم ؛ وإنه لا ينحجر على نار جرح ؛ وإنه من فتنك فبنفسه فتنك . وأهل بيته ، إلا من ظلم ؛ وإن الله على أبر هذا ؛ وإن على اليهود نفقتهم وعلى المسلمين نفقتهم ؛ وإن بينهم النصر على من حارب أهل هذه الصحيفة ؛ وإن بينهم النصح والتصحية ، وأثير دون الإثم ؛ وإنه لم يأثم امرؤ بحليفه ؛ وإن النصر للمظلوم ؛ وإن اليهود ينفقون مع المؤمنين ما داموا محاربين ؛ وإن يثرب حرام جوفها لأهل هذه الصحيفة ؛ وإن الجار كأنفس غير مضار ولا أثم ؛ وإنه لا تجار حرمة إلا بإذن أهلها ؛ وإنه ما كان بين أهل هذه الصحيفة من حدث أو اشتجار يخاف فساده ، فإن مرده إلى الله عز وجل ، وإلى محمد رسول الله صلى الله عليه وسلم ؛ وإن الله على أتقى ما في هذه الصحيفة وأبره ؛ وإنه لا تجار قريش ولا من نصرها ؛ وإن بينهم النصر على من دهم يثرب ، وإذا دعوا إلى صلح يصالحونه ويلبسونه ، فإنهم يصالحونه ويلبسونه ؛ وإنهم إذا دعوا إلى مثل ذلك فإنه لهم على المؤمنين ، إلا من حارب في الدين ، على كل أناس حصتهم من جانبهم الذي قبلهم ؛ وإن يهود الأوس ، مواليهم وأنفسهم ، على مثل ما لأهل هذه الصحيفة . مع أثير المحض ؟ من أهل هذه الصحيفة .

وإن أثير دون الإثم ، لا يكسب كاسب إلا على نفسه ؛ وإن الله على أصدق ما في هذه الصحيفة وأبره ؛ وإنه لا يحول هذا الكتاب دون ظالم وأثم ، وإنه من خرج آمن ، ومن قعد آمن بالمدينة ، إلا من ظلم أو أثم ؛ وإن الله جار لمن بر وآتقى ، ومحمد رسول الله صلى الله عليه وسلم .

freedom of religion and movement. It supported community defence against enemies, promoted justice and goodness and the fight against evil. Jews and Muslims lived in peace side by side for many years. Al-Mubarakpūrī discussed this treaty and stated that it came within the context of another one of a larger framework relating to inter-Muslim relationships. He highlighted the most important provisions of the treaty in twelve main points.<sup>59</sup>

1. The Jews of Banū ‘Awf are one community with the believers. The Jews will profess their religion, and the Muslim theirs.
2. The Jews shall be responsible for their expenditure, and the Muslims for theirs.
3. If attacked by a third party, each shall come to the assistance of the other.
4. Each party shall hold counsel with the other. Mutual relations shall be founded on righteousness; sin is totally excluded.
5. Neither shall commit sins to the prejudice of the other.
6. The wronged party shall be aided.
7. The Jews shall contribute to the cost of war so long as they are fighting alongside the believers.
8. *Madīnah* shall remain scared and inviolable for all that join this treaty.
9. Should any disagreement arise between the signatories to this treaty then Allah, the all-High, and His messenger shall settle the dispute.
10. The signatories to this treaty shall boycott *Quraish* commercially; they shall also abstain from extending any support to them.
11. Each shall contribute to defending *Madīnah*, in case of a foreign attack, in its respective area.
12. This treaty shall not hinder either party from seeking lawful revenge.

Al-Būtī, a leading modern Syrian Muslim Jurist, attempted to explain the significance of this constitution by referring to a major clause: ‘The Jews of the Banū ‘Awf are one community with the believers (the Jews have their religion and the Muslims have theirs), their freemen and themselves except those who behave

<sup>59</sup> Al-Mubarakpūrī, *Ar-Raheeq Al-Makhūm*, op. cit., pp. 197-198.

unjustly and sinfully, for they hurt but themselves'. He commented on this by saying that this is a clear and straightforward text showing that the Islamic State, referring to *Madīnah*, is a partnership between the two different groups, Muslims and Jews.<sup>60</sup> No one would be excluded from this partnership except those who behaved unjustly. The beauty of this is that 'except those who' does not apply only to Jews, it is also applicable to everybody resident in *Madīnah*. He argues that where the constitution of *Madīnah* states, 'The Jews, of the Banū 'Awf, are one community with the believers', it did not mean that they were part of the Muslim community. Because, if this was the case, this would be a clear statement that their identity was merged into the Islamic State. However, this constitution gave them the right to be an independent community inside the Islamic State. Furthermore, al-Būṭī adds that other clauses in this constitution assert equality to all the inhabitants of the Islamic State, in duties and rights, none of which are derived from religious differences.

Hamīduallah went further, arguing that with this constitution the autonomous Jewish villages acceded of their free will to the confederal State and as a result recognised Muhammad as their supreme political head. He added that this implied that the non-Muslim subjects possessed the right of votes in the election of the head of the Muslim State.<sup>61</sup> The researcher argues that in this incident in particular, there is no clear evidence that Jews possessed the right to vote, as an election did not take place at that time.

<sup>60</sup> Al-Būṭī, Muhammad Sa'īd Ramadān, *Mu'āmalet al-Dawlah al-Islamīyah li Ghaīr al-Muslimīn: al-Quds Namūzjan*, Journal of Islamic Jerusalem Studies (Vol. 3, No: 1, Winter 1999 AD), pp. 4-5, (Hereinafter cited as: Al-Būṭī, *Mu'āmalet al-Dawlah al-Islamīyah*).

<sup>61</sup> Hamīduallah, *Introduction to Islam*, op. cit., p. 289.



It is remarkable that the *Madīnah* constitution placed the rules of justice over and above religious solidarity, and affirmed the right of the victim of aggression and injustice to rectitude regardless of their tribal or religious affiliation. Of course, any newly established State must work hard to assemble all inhabitants regardless of their religion, race or colour to ensure the continuation and stability of the State. El-‘Awaīsī argued that Islam rejects the philosophy of a conflict based on eliminating the other party where the victor could have the stage to himself.<sup>62</sup> He confirmed this by quoting the following verse from the Qur’ān:

‘O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that you know each other’<sup>63</sup>

El-‘Awaīsī added:

‘As a confirmation of that idea, Islam favoured another method, namely *Tadāfu*’ or counterbalance as a means of adjusting positions using movements instead of conflict.

This conflict free method is what Islamic teachings see as a means of preserving a non-Islamic presence in this life. *Tadāfu*’ is not only to preserve Islam’s sacred places, but also to preserve the sacred places of others. The Qur’ān says:

‘And if Allah had not counterbalanced (*Daf’u*) some people’s deeds by others, there surely would have been pulled down monasteries, churches, synagogues, and mosques, in which the name of Allah is commemorated in abundant measure’.

This means that from an Islamic point of view *Tadāfu*’ is the means of preserving a plurality of sacred places or the plurality of religions’.<sup>64</sup>

Moreover, one of the aims of Islam is to provide a peaceful life that is based on mutual respect. The researcher argues that the Prophet would have established a

<sup>62</sup> El-‘Awaīsī, ‘*Umar’s assurance*, *op. cit.*, p. 62.

<sup>63</sup> Qur’ān. *al-Hujurāt*:13.

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ

<sup>64</sup> El-‘Awaīsī, ‘*Umar’s assurance*, *op. cit.*, pp. 62-63.

similar agreement or constitution, like the constitution of *Madīnah*, with the same condition to the Christians had they been living in *Madīnah* at that time. However, at that time there were no Christians in *Madīnah*. The practice of the Prophet, for a plural society, carries the same moral authority as any other of his practices. This principle of Islam was intended to apply at all places where Muslims lived alongside adherents of other religions.

To conclude; the Prophet's treatment of the People of the Book, in this case Jews, showed both religious tolerance and prudence. This constitution established the pattern for future relations within an Islamic State between Muslims and the non-Muslims. The basic principle of this relationship was based on religious tolerance and non-interference in the religious affairs of the non-Muslim group. It recognised the freedom of religion for all the citizens. It made the non-Muslim citizens equal partners with the Muslim inhabitants of *Madīnah* in the material progress and wealth of the Islamic State. It gave the right of protection, security, peace and justice not only to the Muslims, but also to the Jews who lived in the city of *Madīnah*, as well as the allies of Jews who were non-Muslims. It allowed Jews to practice their religion quite freely.

### 2.4.2.3 The Prophet's correspondence with the kings and leaders of the non-Muslims

According to Muslim belief, the call of Islam must reach everybody.<sup>65</sup> Therefore, Muslim conquests and the spread of Islam outside Arabia were merely a fulfilment of divine command. During the sixth year of *Hijrah*, the Prophet sent letters to several kings and rulers (including the two superpowers, the Byzantines and the Persians) beyond Arabia calling them to accept Islam. He sent letters to Negus, King of Abyssinia; the Vicegerent of Egypt; Chosroes, Emperor of Persia; Caesar, King of Rome; Mundhir Ibn Sāwā, Governor of Bahrain; Haudha Ibn 'Alī, Governor of *Yamāmah*; Hārith Ibn Shammar Al-Ghassānī, King of Damascus; the King of 'Omān, and to Jaifer and his brother 'Abd Al-Jalandī.<sup>66</sup> The style of these letters is almost the same, with only slight variations. The text of two is mentioned below. In his letter to Hercules, the king of Byzantium, he states:

'In the name of Allah, the Most Beneficent, the Most Merciful. From Muhammad, the slave of Allah and his Messenger, to Hercules, king of Byzantines. Blessed are those who follow true guidance. I invite you to embrace Islam so that you may live in security. If you come within the fold of Islam, Allah will give you double reward, but in the case where you turn your back upon it, then the burden of the sins of all your people shall fall on your shoulders. (The message is followed by the following Qur'ānic verse)

'Say O People of the Book! Come to common terms as between us and you: that we worship none but Allah; that we associate no partners with Him; and that none of us shall take others as lords besides Allah.' If then they turn back, say ye: 'bear witness that we (at last) are Muslims (bowing to Allah's Will).'<sup>67</sup>

<sup>65</sup> Qur'ān, *Saba'*: 28.

<sup>66</sup> Al-Mubarakpūrī, *Ar-Raheeq Al-Makhūm*, *op. cit.*, pp. 350-363

<sup>67</sup> *Ibid.*, pp. 355-356, Qur'ān. *al-Imrān*: 64.

قُلْ يَا أَهْلَ الْكِتَابِ تَعَالَوْا إِلَى كَلِمَةٍ سَوَاءٍ بَيْنَنَا وَبَيْنَكُمْ أَلَّا نَعْبُدَ إِلَّا اللَّهَ وَلَا نُشْرِكَ بِهِ شَيْئًا وَلَا يَتَّخِذَ بَعْضُنَا بَعْضًا أَرْبَابًا مِنْ دُونِ اللَّهِ فَإِنْ تَوَلَّوْا فَقُولُوا اشْهَدُوا بِأَنَّا مُسْلِمُونَ

The second example, is the letter Prophet Muhammad (PBUH) sent to the king of Abyssinia, in which he said:

‘This letter is sent from Muhammad, the Prophet to Negus Al-Ashama, the king of Abyssinia (Ethiopia).

Peace be upon him who follows true guidance and believes in Allah and His Messenger. I bear witness that there is no god but Allah Alone with no associate. He has taken neither a wife nor a son, and that Muhammad is His slave and Messenger. I call you unto the fold of Islam; if you embrace Islam, you will find safety,

“O People of the Book! Come to common terms as between us and you: that we worship none but Allah; that we associate no partners with Him; and that none of us shall take others as lords besides Allah.” If then they turn back, say ye: ‘bear witness that we are Muslims (bowing to Allah’s Will).’

Should you reject this invitation, then you will be held responsible for all the sins of the Christians of your people.’<sup>68</sup>

The king of Abyssinia and the Vicegerent of Egypt welcomed the invitation;<sup>69</sup> Negus, the king of Abyssinia, and the ruler of Bahrain accepted Islam, and Emperor Heraclius acknowledged Muhammad’s Prophethood, but replied that his nation would not be adopting Islam; and the emperor of Persia tore the letter into shreds.<sup>70</sup>

These letters addressed to leaders and kings favoured their designation which highlights the Prophet’s respect shown for their position. On the other hand, the Prophet called himself the slave of Allah and His messenger. Moreover, the Prophet emphasized, in his letters, the grounds of commonality in what they both believe in rather than any differences they might have. Lastly, in these letters, the Prophet Muhammad managed to communicate the message of Islam to most kings and

<sup>68</sup> Al-Mubarakpūrī, *Ar-Raheeq Al-Makhūm*, *op. cit.*, pp.350-351.

<sup>69</sup> Ibid., pp. 334-336.

<sup>70</sup> Ibid., pp .336-339

leaders of that time. Some accepted the message, while others did not. However, the idea of embracing Islam and the arrival of a new Prophet (PBUH) preoccupied all of them.

#### 2.4.2.4 Treaties with the People of the Book

In addition to sending letters, Prophet Muhammad (PBUH) continued to build up a new type of relation by concluding a number of treaties with the People of the Book. He entered into many alliances by treaties with non-Muslims, securing peace and tranquillity for Muslims and non-Muslims alike. Islamic history literature has noted these treaties. For example, Imām Abū Yūsuf and Al-Balādhurī reported several pacts issued by the Prophet Muhammad (PBUH) to the People of the Book of *Najrān*, *Tabalāh*, *Jarash*, *Ayla*, *Adhruh*, *Maqnā*,<sup>71</sup> *Al-Jarbah*, Al-Yamen, and Oman, in which they were promised protection of their lives, rights, property, and beliefs in return for paying *Jizyah*. The text of the pact with the Christians of *Najrān*, who lived in southern Arabia, northeast of Al-Yamen in the midst of an idolatrous tribe, is a typical example. It is as follows:

‘In the name of Allah, the compassionate and Merciful, this is what Muhammad the Prophet of Allah (PBUH) wrote to the people of *Najrān*, when they were under his command... And for the people of *Najrān* and its bordering country, there is the protection of Allah and the compact of Muhammad the Prophet (regarding their property, their lives, their land and their people, whether present or absent, in their families and their trade, whether great or small. No Bishop will be forced to renounce his bishopric nor any monk will be asked to forsake his monastery nor any diviner abandon his profession.

None of them will be subjected to humiliation. There will be no retaliation for the bloodshed committed in pre-Islamic times. They will not be made to suffer any loss; they will not be reduced to destitution. No troops will trample upon their land. If any of them claims his

<sup>71</sup> A Village close to Ayla (*al-‘aqabah*), according to *Yāūat al-Hamawī*

right, justice will be done to him: neither will he be wronged, nor will he be allowed to do any wrong to others. I will not be responsible if any of the governors devours usury and no man will be taken to task on account of wrong done by others. Whatever this document contains has the protection of Allah and the protection of the Prophet till Allah issues some other command so long as people discharge their duties rightly and do not attempt to flee away after doing wrong. Abū Sufyān Ibn Harb, Ghailān Ibn ‘Amr Mālik Ibn ‘Awf from Banū Nasr, Aqra’ Ibn Habis Al-Hanzali and Mughira Ibn Shu‘bah witnessed the document. This document was written for them by ‘Abdallah Ibn Abū Bakr’.<sup>72</sup>

Moreover, Prophet Muhammad (PBUH) issued a similar pact to the Christians of *Ayla* (*al-‘Aqabah*). He first sent a letter addressed to Yuhannā the Christian chief of *Ayla*, inviting him to come to terms with Islam.<sup>73</sup> In the letter Prophet offers the conditions for peace:

‘To Yuhanna Ibn Ru’ba and the chiefs of the people of *Ayla*. Peace be upon you. Praise be to Allah, besides whom there is no god. I shall not fight you until I have written to you. Accept Islam or pay the *Jizyah*, and obey Allah and His Prophet and the messengers of the Prophet...’

Yuhannā accepted the conditions and hastened to Prophet Muhammad’s camp. A pact was concluded between them, which was as follows:

‘In the name of Allah, the compassionate, the Merciful;  
This is a guarantee from Allah and from the Prophet Muhammad, the messenger of Allah, to Yuhannā Ibn Ru’ba and the People of *Ayla*; for their vessels and their travellers is the security of Allah and Muhammad, the messenger of Allah, and for who are with them, whether from *al-Shām* (Syria) or al-Yaman or from the sea-coast; those who breach this pact by causing a grave event (*hadath*), their wealth will not save them; they will be the fair price

<sup>72</sup> Abū Yūsuf, *Kitāb al-Kharāj*, *op. cit.*, pp. 124-125, See Abū Yūsuf, *Kitāb ul-Kharāj*, (*Islamic Revenue Code*). Translated by ‘Alī, A. Edited by Siddiqī ‘A, Islamic Book Centre, (Lahore, 1979 AD), 1<sup>ST</sup> Edition, pp. 143-144. (Hereinafter cited as: Abū Yūsuf, *Islamic Revenue Code*), Abū-‘Ubayd, Al-Qāsim Ibn Salām, *Kitāb Al-Amwāl*, Edited by Harrās M, Dār al-Kutub al-‘Ilmiya, (Beirut 1986 AD), 1<sup>st</sup> Edition, pp. 201-202. (Hereinafter cited as: Abū-‘Ubayd, *Kitāb Al-Amwāl*)

<sup>73</sup> Abū-‘Ubayd, *Kitāb Al-Amwāl*, *op. cit.*, pp. 212-213.

of whosoever captures them; it will be unlawful to prevent them (the people of *Ayla*) from going to the springs of water, or to stop them from the road they follow, by land or by sea; This is written by Juhaym Ibn al-Salt and Shurahbīl Ibn Hasanah by the permission of the Apostle of Allah'.<sup>74</sup>

This demonstrates the practical application of these pacts of the Prophet Muhammad (PBUH) with the People of the Book. Firstly, once they had accepted the pacts, they became part of the Islamic State and would benefit from its protection. It may be noted that in these pacts a new term in Islamic law has appeared. This is the term *Jizyah* tax and the concept of the *Dhimma* pact and *Dhimmīs*; these will be dealt with later. Non-Muslims agreed to pay *Jizyah* and, in return, the Prophet granted them the freedom to practice their religion and live a peaceful life under the protection of the Islamic State.

#### 2.4.2.5 The Prophet's practice and traditions

In addition to that which has been mentioned, and by looking at his traditions and practice, one can observe that the Prophet Muhammad (PBUH) provided excellent facilities for non-Muslims. The Prophet highlighted the duties of Muslims towards non-Muslims. He warned Muslims from violating and mistreating the *Dhimmīs*, and threatened Muslims that if they were to do so, Allah would punish them. For example, the Prophet said:

'He who hurts a *Dhimmī* hurts me, and he who hurts me hurts Allah'.<sup>75</sup>

<sup>74</sup> Abū-'Ubayd, *Kitāb Al-Amwāl*, op. cit., p. 212.

<sup>75</sup> Al-'Ajlūnī, *Kashf al-Khafā'* Vol. 1 p. 661 and Vol. 2, p. 303, *Dār al-Tutāth*, cited in Zaghlūl, Abū Hājar Muhammad, *Mawsū'at Atrāf al-Hādīth al-Shrīf*, *Dār al-Kutub al-'Ilmiya*, (Beirut), n.d, Vol. 8, p. 5.

Moreover, the Prophet (PBUH) asserts the significance of the pledge with non-Muslim when he says:

‘Whoever kills a person having a treaty with the Muslims, shall not smell the fragrance of paradise though its fragrance is perceived from a distance of forty years’.<sup>76</sup>

Muslims were ordered to treat the conquered people with passion and love, and be compassionate and understanding. The Prophet said:

‘... Do not kill an old man, a small child, or a woman. Do not commit acts of treachery nor make profits of the spoils of war’.<sup>77</sup>

‘Release the captured, support whoever asks for help, feed the hungry, and visit the sick’.<sup>78</sup>

‘Let it be known, if any one including Muslims commits injustice, or insults, aggravates, mistreats or abuses a person of the People of the Book (protected by the State or an agreement), he will have to answer me (for his immoral action) on the Day of Judgment’.<sup>79</sup>

Years before the conquest of Egypt by the Muslims, the Prophet did not forget to instruct Muslims and advise them on the way they should treat non-Muslims,

<sup>76</sup> Al-Bukhārī, *Sahīh Al-Būkhārī*, *op. cit.*, Vol 2, part 4, p 65. Al-Zubaidī, Imām Zaīn al-Dīn Ahmad Ibn ‘Abdul-Latīf, *Summarized Sahīh Al-Bukhārī*. Translated Khan M.M. Maktabat Dār-us-Salām, (Riyadh, 1417 AH /1996 AD), 1<sup>ST</sup> Edition, pp, 635-636, (Hereinafter cited as: Al-Zubaidī, *Summarized Sahīh Al-Bukhārī*), Hadīth 1341, Abū Dāwūd, *Sunan Abī Dāwūd*, *op. cit.*, Vol.3, p.84 Hadīth No: 2760, Al-Tabarānī, Abū al-Qasim Sulāīmān, *al-Mu‘jam al-Awsat*, Edited by al-Shāfi‘ī M. Dār al-Fikr (Amman 1999 A.D/1420 A.H), 1<sup>ST</sup> Edition, Vol. 6, pp. 64-65. Hadīth No: 8011, (Hereinafter cited as: Al-Tabarānī, *al-Mu‘jam al-Awsat*), Ibn Hajar, Ahmad Ibn ‘Alī, *Bulūgh al-Marām Min Adellat al-Ahkām*, Maktabat Dār al-Salām and Maktabat Dār al-Faiḥā’, (Riyadh – Damascus 1417 AH/ 1997 AD), 2<sup>ND</sup> Edition, p. 396, Hadīth No: 1314.

<sup>77</sup> Abū Dāwūd, *Sunan Abī Dāwūd*, *op. cit.*, Vol. 3, p.38, Hadīth No: 2614.

<sup>78</sup> Al-Bukhārī, *Sahīh Al-Būkhārī*, *op. cit.*, Vol. 2, part. 6. p. 195.

<sup>79</sup> Abū Dāwūd, *Sunan Abī Dāwūd*, *op. cit.*, Vol. 3, p.168, Hadīth No: 3052, Abū Yūsuf, *Kitāb al-Kharāj*, *op. cit.*, p. 125,



particularly the Copts. Ibn ‘Abd al-Hakam (died 256 AH /817 AD) a Muslim historian, mentioned ten traditions dealing with the Prophet’s advice. For example, a *Hadīth* of the Prophet (PBUH) translates:

‘When you conquer Egypt, take good care of the Copts, and treat them well as they have a pledge (*dhimmtan*) and kinship (*rahman*).’<sup>80</sup>

These sayings and practices of the Prophet Muhammad (PBUH) define the commendable principles in the Muslim treatment of non-Muslims.

### 2.4.3 The practice of the early Caliphs

The early Caliphs followed the instructions of the Qur’ān and the footsteps of the Prophet (PBUH) regarding their treatment of the non-Muslim. The literature has abundant examples of the good treatment of the Caliphs in their dealing with their non-Muslim subjects. Some examples are mentioned below. For example, Abū Bakr states:

‘Do not kill any one from the *Dhimmīs*, otherwise Allah will punish you and throw you into hellfire on your face’<sup>81</sup>

<sup>80</sup> Ibn ‘Abd al-Hakam, Abū al-Qāsim ‘Abd al-Rahmān, *Futūh Misr wa Akhbāruhā*. Edited by al-Hajjāry, M. Dār al-Fikr (Beirut 1416 AH/ 1996 AD), 1<sup>ST</sup> Edition, pp.49-50. (Hereinafter cited as: Ibn ‘Abd al-Hakam, *Futūh Misr*) See also Al-Balādhurī, Abū al-‘Abāss Ahmad Ibn Yahyā. *Futūh al-Buldān*. Mu’saset al-Ma ‘āref (Beirut, 1407 AH /1987AD), p. 307. (Hereinafter cited as: Al-Balādhurī, *Futūh al-Buldān*)

<sup>81</sup> Ibn Sa’d, Muhammad, *Kitāb al-Tabaqāt al-Kubrā*, Edited by ‘Ata M.A. Manshūrāt Muhammad ‘Alī Baydūn, Dār al-Kutub al-‘Ilmiya, (Beirut 1418 AH /1997 AD), Vol.3, p. 144, (Hereinafter cited as: Ibn Sa’d, *Kitāb al-Tabaqāt*)

Another example of Caliph 'Umar Ibn 'Abd al-'Azīz is an eloquent testimony:

'In the name of Allah, the compassionate, the Merciful. From the Servant of Allah, Commander of the Faithful, 'Umar (Ibn 'Abd al-'Azīz) to (the governor) 'Udaī Ibn Artā'h and to the believing Muslims in his company: Peace be with you. I send you praise of Allah, beside whom there is no God. Thereafter: Pay attention to the condition of the Protected (non-Muslims), treat them tenderly. If any of them reaches old age and has no resources, it is you who pay for his keeps. If he has relatives, demand these latter to pay for his keeps. Apply retaliation if anybody commits tort against him. This is as if you have a slave who reaches old age; you should pay for his keeps until his death or liberate him.'<sup>82</sup>

Another letter of the same Caliph translates:

'Purify the registers from the charge of obligation (i.e., taxes levied unjustly); and study old files (also). If any injustice has been committed regarding a Muslim or a non-Muslim, restore him his right. If any such person should have died, remit his rights to his heirs.'<sup>83</sup>

## 2.5 The *Dhimma* pacts and the *Jizyah* tax

The term *Dhimma* literally means pledge and guarantee.<sup>84</sup> It was the contract of protection made with Christians, Jews and all others judged to be the People of the Book, upon their accepting to live within the Islamic State and to pay *Jizyah*. It was mentioned earlier that all citizens of the Islamic State should be treated justly, regardless of the differences of religion. Therefore, when it comes to the *Dhimma* pacts, Al-Būṭī states that this contract could not be more than a *Bay'ah* (a pledge of

<sup>82</sup> Ibid., Vol. 5, pp. 295-296. See also Abū-'Ubaīd, *Kitāb Al-Amwāl*, *op. cit.*, pp. 50-51.

<sup>83</sup> Ibn Sa'd, *Kitāb al-Tabaqāt*, *op. cit.*, Vol. 5, p. 264.

<sup>84</sup> Ibn Manẓūr, *Lisān al-'Arab*. Corrected by 'Abd al-Wahāb A. and al-'Ubaydī M, *Dār Ihīā' al-Turāth al-'Arabī*, (Beirut 1419 AH/ 1999 AD), 3<sup>rd</sup> Edition, Vol. 5, p. 59, (Hereinafter cited as: Ibn Manẓūr, *Lisān al-'Arab*), See also Al-Fayrūzabādī, Muḥīd al-Dīn Muḥammad Ibn Ya'qūbi, *Al-Qāmūs Al-Muhīt*, *Dār Ihīā' al-Turāth al-'Arabī*, (Beirut 1412 AH/1991 AD), 1<sup>ST</sup> Edition, Vol. 4, p. 162. (Hereinafter cited as: Al-Fayrūzabādī, *Al-Qāmūs Al-Muhīt*)

allegiance to obey the rules of the State and participate in its public interest), which took place between the head of the State and all citizens of that State.<sup>85</sup> Therefore no one, Muslim nor non-Muslims, could be excluded from this *Bay'ah* as they were regarded as citizens in the State (*Ahl Dār al-Islam*)<sup>86</sup> or, as has been described by contemporary scholars, as holders of Islamic State citizenship (*al-Jensīya al-Islamiya*).<sup>87</sup> The only difference is that Muslims were obliged to take this *Byī'ah* as a religious duty;<sup>88</sup> while with non-Muslims it was a fulfilment of their treaty with Muslims to secure protection.

The raising of the *Jizyah* from non-Muslim citizens within an Islamic State needs some explanation since this term can be misunderstood. *Jizyah* is literally derived from the verb *Jaza* that means he rendered (something) as a satisfaction or as compensation (in lieu of something else), and is money collected from the *Dhimmi*.<sup>89</sup>

<sup>85</sup> Al-Būṭī, *Mu'āmalet al-Dawlah al-Islāmiyah*, *op. cit.*, p. 8.

<sup>86</sup> Al-Sarkhasī, Abū Bakr Muhammed Ibn Ahmed, *Kitāb al-Mabsūt*, Edited by al-Shāfi'ī M., Introduction by al-'Anānī K, Manshūrāt Muhammad 'Alī Baydūn. Dār al-Kutub al-'Ilmiya, (Beirut 1421 AH /2001 AD), 1<sup>ST</sup> Edition, Vol. 5, Part 10, p. 87, al-Kāsānī, 'Alā' al-Dīn Abī Bakr Ibn Mas'ūd, *Badā'i' al-Sānī 'fī Tarfīb al-Sharā'i'* Edited and Comments by Mu'awad 'A. and 'Abd al-Mawjūd 'A. Manshūrāt Muhammad 'Alī Baydūn. Dār al-Kutub al-'Ilmiya, (Beirut 1418 AH / 1997 AD), 1<sup>ST</sup> Edition, Vol. 9, p. 427.

<sup>87</sup> 'Oudah, 'Abd al-Qādir, *al-Tashrī' al-Jinā'i al-Islāmī Muqāraranan bi al-Qānūn al-Wad'i*, Maktabat Dār al-Turāth (Cairo)n.d, Vol. 1, p.338. See also Zaydān, 'Abd al-Karīm, *Ahkām al-Dhimmīyn wa al-Musta'minīn fī Dār al-Islām*, Maktabat al-Quds, (Baghdad 1402 AH/ 1982 AD), pp. 63-64, (Hereinafter cited as: Zaydān, *Ahkām al-Dhimmīyn*)

<sup>88</sup> Prophet Muhammad says: '...whoever (referring to Muslims) dies without a pledge (*Bay'ah*) dies as one belonging to the days of *Jāhiliyyah* (ignorance)'

<sup>89</sup> Ibn Manzūr, *Lisān al'Arab*, *op. cit.*, Vol. 2, p 280. See also Al-Fāirūzabādī, *Al-Qāmūs Al-Muhī*, *op. cit.*, Vol. 4, p. 152. Ibn 'Ābdīn, Muhammad Amīn, *Rad al-Muhtār 'Ala al-Dur al-Muktār Sharh Tanwīr al-Absār*, Studied, Edited and Commented on by 'Abd al-Mawjūd 'A. and Mu'awad 'A, the Introduction by Ismā'il M. Manshūrāt Muhammad 'Alī Baydūn, Dār al-Kutub al-'Ilmiya, (Beirut 1415 AH /1994 AD.), 1<sup>ST</sup> Edition, Vol. 6, p. 317. (Hereinafter cited as: Ibn

Yūsuf ‘Alī’s comments on the *Jizyah* as a poll tax levied from those who did not accept Islam, but were willing to live under the protection of Islam, and were thus tacitly willing to submit to its ideals being enforced in the Muslim State.<sup>90</sup>

Siddīqī, in his translation of *Sahīh Muslim*, defines *Jizyah* as a tax, a sort of compensation to the Muslim State on the part of the non-Muslims living under the protection of the Islamic State for not participating in military service and enjoying the pact of protection (*Dhimma*).<sup>91</sup> Abū Yūsuf states that the fixing of *Jizyah* was thus in lieu of protection and exemption from the military service of State. The non-Muslims paid a small supplementary tax, the *Jizyah*, which was neither heavy nor unjust. Moreover, if a non-Muslim subject participated in military service during some expedition in a year, he was exempted from the *Jizyah* for the year in question.<sup>92</sup> The researcher argues that exempting non-Muslims from military service

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‘Ābdīn, *Rad al-Muhtār*), Al-Jawhirī, Ismā‘īl Ibn Hamād, *al-Sihāh-Tāj al-Lughah wa Sihāh al-Arabīyah*, Dār al-‘Ilm lil Malāyīn (Beirut), n.d., Vol. 6, pp.2302-2303.

<sup>90</sup> ‘Alī, ‘Abduallah Yūsuf. The Holy Qur’ān: translation and commentary. IPCI: Islamic vision (Birmingham 1418 AH /1998 AD), p. 497.

<sup>91</sup> Muslim, Imām Abū al-Husāin Ibn al-Hajāj, *Sahīh Muslim*, Rendered Into English by Siddīqī A. Ādam Publishers and Distributors (India 1996 AD), 1<sup>ST</sup> Edition, Vol. 3, 163, (Hereinafter cited as: Muslim, *Sahīh Muslim*).

<sup>92</sup> For example, al-Balāthuri mentioned that one of the terms in the treaty between Maslamah Ibn ‘Abd al-Malik (one of the army leaders of al-Walīd Ibn ‘Abd al-Malik) and *al-Jarajimah* (Christian tribe in al-Sham), is that *al-Jarajimah* would be exempted from paying the *Jizyah* and have to participate in the Muslims war. See Al-Balādhuri, *Futūh al-Buldān*, *op. cit.*, p. 220. It is worth mentioning that Imām al-Shāfi‘ī has permitted the participation of non-Muslims in the side of Muslims in their wars. He justified this by relying on some examples in the Muslim history when a number of the Jews of Banū Qaynaqā’ have joined the Muslims in their war after *Badr*, and the participation of Safw‘n (who is non-Muslim) in the Muslim side in the battle of *Hunayn*. While Imām Abū Hanīfah and Imām Mālik disallowed the participation of non-Muslims in the Muslim side in their wars, see Al-Māwardī, Abū al-Hasan ‘Alī Ibn Muhammad, *al-Hāwī al-Kabīr*, Edited by Matrajī M. Dār al-Fikr, (Beirut 1414 AH /1994 AD), Vol. 18, pp.144-145, (Hereinafter cited as: Al-Māwardī, *al-Hāwī al-Kabīr*).

is because it would be illogical to ask non-Muslims to fight for the sake of Islam and Muslim. It would be like enforcing them to practice a system of worship without basic belief. However, non-Muslims can participate for other reasons, for example, for the sake of defending the State they are living in.

### 2.5.1 When was *Jizyah* prescribed? And what was its nature?

At the beginning of Islam, this tax did not exist in the Muslim State, either in *Madīnah* or elsewhere. There is a disagreement between scholars regarding the actual date *Jizyah* was prescribed. For example, Ibn al-Qayyim states that *Jizyah* was not taken from non-Muslims before the revelation of the *Jizyah* verse in year 8 A.H.<sup>93</sup> Whereas, Abū ‘Ubayd<sup>94</sup> and Ibn Kathīr<sup>95</sup> consider the year 9 AH as the year of the revelation of the above verse and that it was then that the Qur’ān ordained it. The verse from the Qur’ān which legitimises the concept of *Jizyah* translates as follows:

‘Fight those who believe neither in Allah nor in the Last Day, nor hold that forbidden which hath been forbidden by Allah and His Messengers, nor acknowledge the Religion of truth, from among the People of the Book, until they pay the *Jizyah* with willing submission, and feel themselves subdued’.<sup>96</sup>

<sup>93</sup> Ibn al-Qayyim, Muhammad Abī Bakr, al-Jawziyya, *Zād al-Ma‘ād fī Hadī Khair al-Bād*, ala-Maktabah al-Qayyimh (Cairo 1410 AH /1989 AD), 1<sup>ST</sup> Edition, Vol. 3, p 370. (Hereinafter cited as: Ibn al-Qayyim, *Zād al-Ma‘ād*)

<sup>94</sup> Abū-‘Ubayd, *Kitāb Al-Amwāl*, op. cit., p. 25.

<sup>95</sup> Ibn Kathīr, *Tafsīr al-Qur’ān al-‘Azīm*, op. cit., Vol. 2.p. 456.

<sup>96</sup> Qur’ān. *At-tauba*: 29.

قَاتِلُوا الَّذِينَ لَا يُؤْمِنُونَ بِاللَّهِ وَلَا بِالْيَوْمِ الْآخِرِ وَلَا يُحَرِّمُونَ مَا حَرَّمَ اللَّهُ وَرَسُولُهُ وَلَا يَدِينُونَ دِينَ الْحَقِّ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ حَتَّى يُعْطُوا الْجِزْيَةَ عَنْ يَدٍ وَهُمْ صَاغِرُونَ

No fixed rate for *Jizyah* was set either by the Qur'ān or by the Prophet Muhammad. The jurists, therefore, differed as to the amount of *Jizyah*.<sup>97</sup> According to Abū-Hanīfah, the rate was 48 *dirhams* for the rich people, 24 *dirhams* for the middle class and 12 *dirhams* for the poor cultivator who working by his own hand. He thus specified the minimum and maximum amounts and disallowed any further discussion in that regard.<sup>98</sup> The *Hanbalīs* followed the opinion of Caliph 'Umar. They were like the *Hanifīs*, but they allowed for the fact that this amount could be increased or decreased in accordance with the people's economic situation.<sup>99</sup> Imām Al-Shāfi'ī does not stipulate the maximum.<sup>100</sup> Al-Shāfi'ī suggested one dinar per year, which would be the Arabian gold *dinār* of the Muslim States. Imām Mālik suggests that if the *Dhimmī* was poor (*ahl al wariq*)<sup>101</sup>, the rate would be 40 *dirhams*. However, if they were richer (*Ahl al dhahab/ gold*), then it would be 4 *dinārs*.<sup>102</sup> Therefore, the difference is between those who use silver and those who use gold. He also states that it is not permissible to increase this amount.

<sup>97</sup> Al-Māwardī, A. *al-Ahkām as-Sultaniyyah: the laws of Islamic governance*. Translated by Yate. A. Ta-Ha publishers Ltd, (UK 1996 AD), pp. 209-210. (Hereinafter cited as: Al-Māwardī, *al-Ahkām as-Sultaniyyah*)

<sup>98</sup> Ibn Juzāī, Abū al-Qāsim Muhammad Ibn Ahmad, *al-Qawānīn al-Fiqhiyyah*, Dār al-Fikr, (Beirut), n.d, pp.135-137. (Hereinafter cited as: Ibn Juzāī, *al-Qawānīn al-Fiqhiyyah*)

<sup>99</sup> Ibid., pp. 135-137.

<sup>100</sup> Ibid., pp. 135-137, Al-Māwardī, *al-Ahkām as-Sultāniyyah*, *op. cit.*, p. 210.

<sup>101</sup> *Al wariq* means Silver (*Fiddah*) see Ibn al-Athīr, Muhammad Ibn al-Jazriy, *al-Nihāya fi Gharīb al-Hadīth wa al-Ather*, Edited by al-Zāwī T, and Al-Tanājī M, al-Maktabah al-'Ilmiyya (Beirut 1383 A.H/ 1963 AD), Vol. 5, p. 175.

<sup>102</sup> Al-Asbahī, Mālik Ibn Anas, *Al-Muwatta' bi riwāyat Muhammad Ibn al-Hasan al-Shaībanī*, Dār al-Yarmūk, (Beirut), n.d, p. 112, Hadīth No: 333, Ibn Juzāī, *al-Qawānīn al-Fiqhiyyah*, *op. cit.*, pp. 135-137.

Abū Yūsuf (died 183 A.H) has written that the Islamic State shall take from non-Muslims only what was mutually fixed at the time of the peace-making. All terms of the treaty should be strictly adhered to and no addition be permitted.<sup>103</sup>

Generally speaking, the amount stated by jurists is a trivial amount and is given once a year. *Jizyah* varied in amount, and there were exemptions for the poor, for females, children, slaves, and for monks and hermits.<sup>104</sup> The researcher believes that these different amounts cited by different jurists only means that there was no fixed rate and there was room for flexibility depending on time, place, and the economic situation. The *Jizyah* collector should try to harmonize between the different amounts, given by the different jurist as shown above, and exact the amount in accordance with people's means.

Al-Būṭī argues that *Jizyah* which is given to the Islamic State by non-Muslims is similar to the *Zakāh*, which is the amount given by Muslims to the Islamic State.<sup>105</sup> The only difference is that Muslims pay *Zakāh* as part of their religious duty and form of worship, while *Dihmmīs* pay *Jizyah* as their fulfilment of their pact with the Muslim State, a duty to the State in which they are living. In other words, Muslims pay '*Zakah*' to the Muslim Treasury. The non-Muslims have to pay less amount under the name of '*Jizyah*', which goes to the Islamic State to be spent on protection of the State as they are part of it.

<sup>103</sup> Abū Yūsuf, *Kitāb al-Kharāj*, *op. cit.*, pp. 122-126.

<sup>104</sup> *Ibid.*, pp 122-123, Al-Māwardī, *al-Ahkām as-Sultāniyyah*, *op. cit.*, p. 209, Al-Farrā', Abī Ya'lā Muhammad Ibn al-Husāin, *al-Ahkām as-Sultāniyyah*, Corrected and commented on by al-Faqī M. Dār al-Fīkr, (Beirut, 1974 AD), 3<sup>RD</sup> Edition, p.154, (Hereinafter cited as: Al-Farrā', *al-Ahkām as-Sultāniyyah*),

<sup>105</sup> Al-Būṭī, *Mu'āmalet al-Dawlah al-Islāmīyah*, *op. cit.*, pp. 8-9.

Al-Būtī also illustrated that choosing the term *Jizyah* for this tax or compensation did not derive from a religious decision or an Islamic order. There is no evidence in Islamic law to show that Muslims are worshipping (*ta'abbud*) in their calling this term *Jizyah*, they could easily use another term. Al-Būtī clarified this by giving the example of 'Umar Ibn al-Khattāb with the Christians of Banū Taghlib. They asked 'Umar to take *Jizyah* from them under the name of *Sadaqa*, even if this meant doubling the money of *Jizyah*.<sup>106</sup> He also adds that, as a result of this, the majority of scholars, *Shāfi'īs*, *Hanfīs* and *Hanblīs*, agreed that it is acceptable to take *Jizyah* from *Dhimmi* under the name of *Zakāh*, but the amount is doubled.<sup>107</sup>

### 2.5.2 Terms in the *Jizyah* verse

The meaning of 'with willing submission' (*An Yadin*), taken from the last part of the above verse, literally means from the hand. This term has been variously interpreted. Al-Zamakhsharī assumed that there could be two meanings for this term. Firstly, the hand can be seen as a symbol of power or authority, Secondly, it can be seen as a kind of favour from the Muslims to the *Dhimmi*s when they are saved from being killed.<sup>108</sup> Al-Rāzī agreed with Al-Zamakhsharī.<sup>109</sup> Al-Qurtābī, in his interpretation of the term quoted several meanings. For example, he quoted Ibn 'Abbās when he said that the term means to personally pay the money to the *Jizyah* collector and not send it by anyone else.<sup>110</sup> Al-Tabarī simply interpreted the term by saying that *Jizyah* is

<sup>106</sup> This is dealt with in the next chapter.

<sup>107</sup> Al-Būtī, *Mu'āmalet al-Dawlah al-Islamiyah*, *op. cit.*, p. 9

<sup>108</sup> Al-Zamakhsharī, *Tafsīr al-Kashāf*, *op. cit.*, Vol. 2, p. 254.

<sup>109</sup> Al-Rāzī, *al-Tafsīr al-Kabīr*, *op. cit.*, Vol. 8, p. 25

<sup>110</sup> Al-Qurtubī, *al-Jāmi'*, *op. cit.*, Vol. 4, p. 49.



given from the hand of the *Dhimmīs* to the hand of the collector.<sup>111</sup> Ibn al-‘Arabī, mentioned fifteen potential meanings: such as giving the money with humiliation, under a pledge, or being rich to be able to pay it, to come in person to pay the *Jizyah* and not to send someone else, and not to thank the *Dhimmī* when he pays or to pray for him etc.<sup>112</sup> In the latter sense, the hand is the symbol of the ability to pay the *Jizyah*; and that *Jizyah* is not taken from those who cannot afford it. Therefore, children, elderly, poor and women are exempted from it. In fact, taking this verse literally does not apply to anyone who is not actually fighting against Muslims. The payment here clearly refers to a sign of ending a war and a token of civil obedience or regional reconciliation. *Jizyah* signifies the end of fighting.

There are disagreements between Muslim scholars, whether Qur’ānic interpreters or Islamic jurists, with regard to the meaning of the subdued (*sāghirūn*) in the above verse. Some Muslim scholars interpret this word to mean that *Jizyah* shall be taken from the *Dhimmīs* with belittlement and humiliation.<sup>113</sup>

However, other Muslim scholars interpret this word to mean submission to the Muslim political authority, and not humiliation. Therefore by paying *Jizyah* adherence is shown to the Islamic State, and the State in return will support and protect them. For example, al-Shāfi‘ī and Ibn al-Qayyim opine that subdued

<sup>111</sup> Al-Tabarī, *Tafsīr al-Tabarī*, op. cit., Vol. 6, p. 349.

<sup>112</sup> Ibn al-‘Arabī, *Ahkām al-Qur’ān*, op. cit., Vol. 2, pp. 479-480.

<sup>113</sup> Al-Zamakhsharī, *Tafsīr al-Kashāf*, op. cit., Vol. 2, p. 254, See also Al-Qurtubī, *al-Jāmi’*, op. cit., Vol. 4, p. 49, Al-Tabarī, *Tafsīr al-Tabarī*, op. cit., Vol. 6, p. 349. See also Al-Rāzī, *al-Tafsīr al-Kabīr*, op. cit., Vol. 8, p. 25. See also Ibn Kathīr, *Tafsīr al-Qur’ān al-‘Azīm*, op. cit., Vol. 2, p. 458.

(*sāghirūn*) means accepting the law of Islam with regard to the *Dhimmīs*.<sup>114</sup> Ibn Hazm defines this term by saying that the laws of Islam will apply to them; *Dhimmī* should not show their disbelief or do something that Islam does not allow.<sup>115</sup> Al-Nawawī<sup>116</sup> and Ibn al-Qayyim refuted the aspect of humiliation and strengthen their argument by saying that this kind of behaviour has no evidence from the Qur'an or the Prophet's tradition or his companion's practice.<sup>117</sup> Al-Nawawī adds that *Jizyah* must be taken as kindly, as taking a debt from someone. Furthermore, Abū Yūsuf discussed the kindness in taking the *Jizyah* when he states that:

'No one from the *Dhimmīs* would be beaten in extracting *Jizyah* from them; nor would they be made to stand in the sun nor would any persecution be inflicted upon their bodies. Instead kindness will be shown to them. They would be restrained till they paid what was incumbent upon them and they would not be released from this detention till *Jizyah* is taken from them in full'.<sup>118</sup>

Al-Būtī adds that non-Muslims are not viewed by Muslim rule as a burden, as long as they remain submissive, as do the Muslims, to the State's regime. The researcher agrees with these scholars and doubts that the Qur'an meant humiliation to the

<sup>114</sup> Al-Shāfi'ī, Abū 'Abd Allah Muhammad, *Kitāb al-Umm*, Edited by Matrajī M. Dār al-Kutub al-'Ilmiya, (Beirut 1413 AH /1993 AD.), 1<sup>ST</sup> Edition. Vol. 4, p. 249. (Hereinafter cited as: Al-Shāfi'ī, *Kitāb al-Umm*), Ibn al-Qayyim, Muhammad Ibī Bakr, al-Jawziyya, *Ahkām Ahl al-Dhimma*. Edited by Sa'ad, T, Dār al-Kutub al-'Ilmiyya, (Beirut 1415 AH / 1995), 1<sup>ST</sup> Edition, Vol. 1, p 35, (Hereinafter cited as: Ibn al-Qayyim, *Ahkām Ahl al-Dhimma*)

<sup>115</sup> Ibn Hazm, Abū Muhammad 'Alī Ibn Ahmad *Al-Muhallā bil Ather*. Edited by al-Bandārī, A, Dār Al-Kutub al-'Ilmiya (Beirut 1405 AH /1984 AD), Vol. 5.p. 414, (Hereinafter cited as: Ibn Hazm, *Al-Muhallā*)

<sup>116</sup> Al-Nawawī, Abū Zakaryā Yahyā, *Rawdat al-Tālibīn*, Edited by 'Abd al-Mawjūd 'A. and Mu'wad 'A, Manshūrāt Muhammad 'Alī Baydūn, Dār al-Kutub al-'Ilmiya, (Beirut 1418 AH/ 1998 A.D.), 1<sup>ST</sup> Edition, Vol.7. pp. 503-504. (Hereinafter cited as: Al-Nawawī, *Rawdat al-Tālibīn*)

<sup>117</sup> Ibn al-Qayyim, *Ahkām Ahl al-Dhimma*, *op. cit.*, Vol. 1, p 35.

<sup>118</sup> Abū Yūsuf, *Kitāb ul-Kharāj*, *op. cit.*, p.123, See Abū Yūsaf, *Islamic Revenue Code*, *op. cit.*, p. 248.

*Dhimmīs*. The researcher argues that if *Jizyah* were considered a humiliation, for non-Muslims disbelief, no one would be exempted. This is shown in Abū Yūsuf's reply to Harūn al- Rashīd with regard to the exemption:

*'Jizyah* would not be charged from a destitute to whom charity is given nor from the blind who has no provision or any work nor it will be charged from a *Dhimmī* to whom charity is given nor from one who sits (at home due to disability). But if they are prosperous then it will be charged from them. Similarly would be the case of the blind. Similarly, *Jizyah* would be charged from the monks who live in a monastery but are prosperous. But if they are poor people to whom charity is given by prosperous co-religious people, *Jizyah* will not be charged from them. Similarly, *Jizyah* is leviable on the people of synagogues if they have declared their whole property as trust for monasteries, the monks and the workers living there, even then *Jizyah* will be charged from them and the required amount will be charged from the incharge of the monastery. But if the incharge of the monastery denies having received these donations and he swears by Allah to this effect and takes an oath in the manner in which his co-religious people take an oath that he has not received anything from the trust, then he will be left alone and *Jizyah* will not be levied from him.<sup>119</sup>

Furthermore, immediately after the Muslim conquest of *al-Hira* by Khālīd Ibn al-Walīd, Khālīd wrote a letter to Caliph Abū Bakr telling him of how he had implemented the *Jizyah* tax and exempted the poor, old and handicapped non-Muslims from the payment of *Jizyah*. In his letter, he said:

'I counted the male population, they were seven thousand. On further examination, I found that one thousand of them were permanently sick and unfit. So, I excluded them from the imposition of *Jizyah*; and those susceptible to *Jizyah* thus remained six thousand people... I have granted them the right that when a man becomes unfit to work because of old age, or who should otherwise be affected by calamity, or one who was rich but became poor to the extent that he requires the charity of his religion, I shall exempt him from the *Jizyah* and he and his family will be supported by the Muslim treasury by means of maintenance allowance as long as he lives in the Muslim territory.<sup>120</sup>

<sup>119</sup> Ibid. pp. 246-247.

<sup>120</sup> Abū Yūsuf, *Kitāb ul-Kharāj*, op. cit., pp. 143-144.

It is beyond doubt that never will Islam impose *Jizyah* as a compensation from non-Muslims for their disbelief in Allah, simply because the Islamic *Sharī'ah* rises above all material values. Once the *Dhimma* pact is concluded, he/she will automatically become a citizen of the Islamic State and will share all the basic rights a Muslim has, whether they are the ethnic majority or the ethnic minority. The researcher would like to note that the terminology of minority has no place in Islamic law.<sup>121</sup> Al-Būtī argues that this terminology has no place in the sources of Islamic *Sharī'ah* and the jurists have never used it. He adds that this terminology is, however, founded in and derived from western societies in order to distinguish between the ethnic majority and the ethnic minority. He also explains that this terminology, in this meaning, has no room in Islamic law and is alien to the spirit of Islam, because it divides the population of the State into first and -second class- citizens. Therefore, everybody who lives in the Islamic State enjoys the same citizenship rights, despite the differences they may have in their religions or their population size. Lastly, there are no first -or second- class citizens according to the Islamic Law.<sup>122</sup>

However, a number of non-Muslim writers claim that non-Muslims living under the Islamic State are treated as second-class citizens<sup>123</sup> while others went further to claim that non-Muslims were not only treated as a second-class citizens, but even as third-class citizens. In the words of Abraham and Haddād:

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<sup>121</sup> Minority means a relatively small group of people differing from others in the society of which they are a part in race, religion, language, political persuasion, etc. The Oxford English Reference Dictionary. Edited by Pearsall J. and Trumble B. Oxford University Press, (Oxford – New York 1996 AD), p. 921.

<sup>122</sup> Al-Būtī, *Mu'āmalet al-Dawlah al-Islāmīyah*, op. cit., p. 6.

<sup>123</sup> Hamilton, Bernard, *The Christian World of the Middle Ages*, BCA (U.K 2003 AD), p. 216 (Hereinafter cited as: Hamilton, *The Christian World*).

‘In an Islamic State, Islam is the ideology of the State and, therefore, there is no room for those who are outside the State’s ideology in the government, they are seen as third class citizens or aliens and possibly, dangerous creatures whose loyalty is questioned and always suspect’,<sup>124</sup>

Abraham and Haddād established their view by referring to the status of *Dhimmīs* recorded in the Islamic law literature, i.e. that *Dhimmīs* are not allowed either to be the head of State (Caliph) or a judge.<sup>125</sup> It seems that both are contradicting themselves. Firstly, they accepted that an Islamic State is an ideological State. More specifically, this means that an Islamic State is based on an idea, which in this case is Islam. According to Muslim’s belief, the leader of the State must be a Muslim. Al-Mārwadī defined leadership in Islam as a position ‘prescribed to succeed the Prophet-hood as a means of protecting the *Dīn* (religion) and of managing the affairs of the world’<sup>126</sup> Therefore the position of Caliph or judge is a religious position and one of the conditions needing to be fulfilled is that the leader be Muslim. Hence, in Islam the head of the State is the head of religion. From this one will easily understand why a non-Muslim subject cannot be elected as head of a Muslim State. The caliph or judge must be a well-educated and a religious person; his position entails giving orders and solving problems between subjects, according to the Islamic

<sup>124</sup> Abraham, A.J & Haddad, G. *The warriors of God: Jihad (Holy War) and the fundamentalists of Islam*, Wyndham Hall Press. (USA, 1989 AD), p. 14, (Hereinafter cited as: Abraham & Haddad, *The warriors*).

<sup>125</sup> Ibid., p. 14.

<sup>126</sup> Al-Māwardī, *al-Ahkām as-Sultāniyyah*, op. cit., p.10.

rules with which he should be familiar. Moreover, even Muslims themselves are not entitled to become Caliph except under certain conditions that have to be satisfied.<sup>127</sup>

But this exception does not mean that non-Muslims cannot work with the Muslim team, have positions in the government, or be excluded from the political and administrative life of the State. Tritton, in his Book 'The Caliphs and their non-Muslim subjects', mentioned many examples where Muslims employed the People of the Book in many governmental positions.<sup>128</sup> Moreover, both Al-Māwardī, a *Shāfi'ī* jurist, and Al-Farrā', a *Hanbalī* jurist, did not hesitate to support the view that the Caliph can appoint non-Muslim subjects as ministers and members of executive councils.<sup>129</sup> Therefore, excluding non-Muslims from the post of State leadership is not discrimination, rather is it eligibility for this post. It can be said therefore, that the conclusion the above writers have reached is incorrect, since non-Muslims have never been classified as second -or third- class citizens.

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<sup>127</sup> Al-Farrā', *al-Ahkām as-Sultāniyyah*, *op. cit.*, p. 20, See also Al-Māwardī, *al-Ahkām as-Sultāniyyah*, *op. cit.*, p.12.

<sup>128</sup> Tritton, A.S, *The Caliphs and Their Non-Muslim Subjects: A critical Study of the Covenant of 'Umar*, Oxford University Press, (London 1930 AD), pp.118-136, (Hereinafter cited as: Tritton, *The Caliphs*).

<sup>129</sup> Al-Farrā', *al-Ahkām as-Sultāniyyah*, *op. cit.*, p.32, See also Al-Māwardī, *al-Ahkām as-Sultāniyyah*, *op. cit.*, p. 44.

## 2.6 Rights (*Huqūq*) and Obligations (*Wājibāt*) of *Dhimmīs*

### 2.6.1 Rights of *Dhimmīs*

Once the leader of the Islamic State agrees with the non-Muslims on the *Dhimma* pact, this pact guarantees the *Dhimmīs* a number of benefits and rights. The three main rights and benefits are discussed later in this section.

As far as *Dhimmī*'s rights are concerned, Muslim scholars have discussed these extensively. For example, Imam Al-Māwardī said that the leader, who is an authority on the Islamic State, must impose *Jizyah* on all those who come under *Dhimmī* protection from amongst the People of the Book, so that can be considered as residents in *Dār al-Islām*. Their payment of *Jizyah* assures them two rights. Firstly, *Dhimmīs* would be left in peace and be protected. Secondly, their domestic security is assured and their defence from outside attack is guaranteed.<sup>130</sup> Abu-Yūsuf advised Caliph Hārūn Al-Rashīd regarding the right of non-Muslims, saying:

‘O *Amir* of the Faithful, it is necessary that you should show kindness to the *Dhimmīs* of your Prophet Muhammad and you should keep an eye on them so they are not oppressed or persecuted, nor is anything imposed upon them beyond their capacity; nor should anything be taken from their properties except with justification which is incumbent upon them. It has been related to the Holy Prophet (peace and blessings be upon him) that he said, ‘whoever oppresses one with whom a treaty has been made, or imposes on him a burden beyond his capacity, then he will have to answer me on the Day of Judgment’. Furthermore, the Holy Prophet’s talk with ‘Umar Ibn al-Khattāb at the time of his death, contained ‘I commend to the caliph after me that he exercise good treatment on those who are under the Prophet’s protection. He should keep to the covenant with them, fight those who are after them, and do not tax them beyond their capacity’.<sup>131</sup>

<sup>130</sup> Al-Māwardī, *al-Ahkām as-Sultāniyyah*, *op. cit.*, p. 208.

<sup>131</sup> Abū Yūsuf, *Kitāb al-Kharāj*, *op. cit.*, pp. 124-125. See Abū Yūsuf, *Islamic Revenue Cod*, *op. cit.*, p. 251.

Ibn Juzāī (died 741 AH) states that Muslims should allow *Dhimmīs* to live in the Islamic State, and assure them of protection regarding their lives and properties. Also Muslims should not interfere with their churches and their style of life, i.e. drinking wine and eating pork, as long as they do not do so in public.<sup>132</sup> The non-Muslims should be left to be governed by their own personal laws. An Islamic State should not interfere with the personal laws of non-Muslims.

### 2.6.1.1 Protecting *Dhimmīs* from internal attacks

There are many verses in the Qur'ān, along with Prophetic traditions, that prohibit Muslims from exercising injustice and from attacking others in general. The first Muslim Caliphs used to ask about the situation of non-Muslims whenever non-Muslims from neighbouring provinces came to *Madīnah*. When any complain came from a non-Muslim, they would give the matter their urgent attention in order to make sure that justice was done. For instance, Caliph 'Umar used to question the delegates regarding the condition of non-Muslims. He would ask whether any Muslim had hurt the feelings of non-Muslims in their provinces. Once he asked a delegate to tell him about the treatment of non-Muslims at the hands of the Muslims in their homes and towns. The delegate replied: 'they fulfil their pledge by exercising only fair treatment'.<sup>133</sup>

Furthermore, Al-Qaradāwy claims that there is a consensus between the scholars of the different juristical school regarding the obligation among Muslims to protect *Dhimmīs*

<sup>132</sup> Ibn Juzāī, *al-Qawānīn al-Fiqhīyah*, *op. cit.*, pp. 136-137.

<sup>133</sup> Al-Tabarī, *Tārīkh al-Umam*, *op. cit.*, Vol. 2, pp. 502-503.



and to support them, because when Muslims concluded the *Dhimma* pact, they undertook to protect non-Muslims from internal oppression, as they had become citizens of the Islamic State. He was quoting Ibn ‘Ābdīn in his consideration that oppressing a *Dhimmī* was a bigger sin than oppressing a Muslim.<sup>134</sup>

### 2.6.1.2 Protecting *Dhimmīs* from external attacks

The famous *Mālikī* scholar Imām al-Qarāfī quotes the statement of Ibn Hazm from his book *Marātib al-Ijmā’*:

If enemies at war come to our country aiming at a certain *Dhimmī*, it is essential for us that we come out to fight them with all our might and weapons since he is under the protection of Allah and his messenger. If we did anything less than this, it means we have failed in our agreement for protection.<sup>135</sup>

Ibn Taymīyah demonstrated the example of where the Tartars invaded Syria; he went to see the leader of the Tartars to ask him to spare the sufferings of his people. The leader agreed to this with the Muslims, but refused to treat the non-Muslims (the Christians who were taken from Islamic Jerusalem) in the same way. Ibn Taymīyah said that this would not please the Muslims since the Jewish and Christian families were under their protection. On the insistence of Ibn Taymīyah, all prisoners of war were released.<sup>136</sup> An essential right for *Dhimmīs* is what Islam provides for them; this is the freedom of religion, dealt with in the following section.

<sup>134</sup> Al-Qaradāwy, *Ghaīr al-Muslimīn*, *op. cit.*, p. 11,

<sup>135</sup> Al-Qarāfī, *al-Fūrūq*, *op. cit.*, Vol 3 , p. 29.

<sup>136</sup> Ibn Taymīyah, Ahmad, *Majmū’ fatāwa Shaīkh al-Islām Ahmad Ibn Taymīyah*. Edited by al-Asmee, A & his son Muhammad, al-Ri’āsah al ‘Āmmah li Shu’ūn al-Haramaīn al-Sharīfāīn, (Saudi Arabia.) Vol. 28, p. 306, (Hereinafter cited as: Ibn Taymīyah, *Majmū’ fatāwa Shaīkh al-Islām*

### 2.6.1.3 The freedom of religion

An important right that Islam provides for non-Muslims is the freedom of religion. The People of the Book are entitled to freedom of belief, conscience and worship. Neither the Qur'ān nor the sayings of the Prophet have ever encouraged compulsion to religion, i.e. by the use of force, pressure or manipulation. The most obvious and clear verse which emphasise the concept of freedom of religion is shown in the following Qur'ānic verse:

'Let there be no compulsion in religion: Truth stands out clear from Error...' <sup>137</sup>

The reason for the revelation of this verse is the case of the *Madinan* man of the tribe of Sālim Ibn-ʿAwf; his two sons had become Christians before Prophet Muhammad (PBUH) began the call to Islam. The father insisted that the sons become Muslims. They refused and he took the case to Prophet Muhammad (PBUH). Then came the revelation 'There is to be no compulsion in religion.' <sup>138</sup>

The reason is that faith, to be true and reliable, needs to be an absolutely free and voluntary act. In this connection it is worthwhile underlining that the verse quoted above was revealed to disprove and condemn the attitude of some Jews and Christians, newly converted to Islam in *Madīnah*, who wished to convert their children along with them to their new faith. Thus it is clearly stressed that faith is an individual concern and commitment, and that even parents must refrain from

<sup>137</sup> Qur'ān. *al-Baqarah*: 256.

لَا إِكْرَاهَ فِي الدِّينِ قَدْ تَبَيَّنَ الرُّشْدُ مِنَ الْغَيِّ

<sup>138</sup> Al-Wāhidī, Abū al-Hasan 'Alī Ibn Ahmad. *Asbāb al-Nuzūl*. Edited by Sha'bān, A. Dār al-Hadīth (Cairo 1419 AH/ 1998AD), 4<sup>TH</sup> Edition, p. 74, (Hereinafter cited as: Al-Wāhidī, *Asbāb al-Nuzūl*)

interfering. The very nature of faith, as stressed in the basic text of Islam—clearly and indisputably—is to be a voluntary act born out of conviction and freedom.

Ibn Kathīr argues that Islam is clear and distinct, no one needs to force anybody to embrace Islam.<sup>139</sup> He continues that those who have been guided by Allah would embrace Islam. However, for those whose hearts Allah has blinded it would be of no use embracing Islam; without good will, they would not benefit from being forced. Qutb, viewed this verse from a different angle. He highlights the great concept, derived from the verse, namely the concept of freedom of creed and the freedom of choice. He believes that this concept manifests the honouring of the human being, and respect for his thoughts, will, feeling and his choice in either believing or rejecting and accepting the consequences of that choice. Qutb argues that freedom of belief is the most basic right that identifies man as a human being; to deny anyone this right is to deny his or her humanity.<sup>140</sup>

Abū-Zahra comments on the above verse by saying that Islamic rules governing human relations totally respect freedom of creed and belief.<sup>141</sup> He adds that the Qur'ān rejects compulsion as a means of driving people to embrace a certain religion, and forbids Muslims to compel anyone to adopt a creed or belief. 'Abdel'atī, an Egyptian scholar, commenting on this verse says that Islam takes this

<sup>139</sup> Ibn Kathīr, *Tafsīr al-Qur'ān al-'Azīm*, *op. cit.*, p. 416.

<sup>140</sup> Qutb, *Fī Zilāl al-Qur'ān*, *op. cit.*, Vol. 1, p. 291. See also Qutb, Sayyid, *In The Shade of the Qur'ān* (*Fī Zilāl al-Qur'ān*), Translated and Edited by Salahī M.A and Shamīs .A.A, The Islamic Foundation (Leicester-U.K 1420 AH /1999 AD), Vol. 1, p. 325.

<sup>141</sup> Abū-Zahra, *International Relation*, *op. cit.*, pp. 59-101

attitude because religion depends upon faith, will and commitment.<sup>142</sup> He suggests that these three matters are worth nothing if force and compulsion have induced them.

Al-Mawdūdī, interpreted the verse by saying that the term religion therein signifies belief in Allah, and the entire system of life as it should be led rests upon it. He adds that the verse means that the system of Islam, embracing belief morals and practical conduct, cannot be imposed by compulsion. These are not things into which people can be forced.<sup>143</sup>

Al-Zuhāilī, a contemporary Syrian jurist, commented on the above verse by saying that compulsion in religion is prohibited. Qur'ān does not accept the forcing of non-Muslims to convert to Islam as the approach to dealing with them, despite the clear evidence of the Prophethood of the last messenger Muhammad.<sup>144</sup>

Malekian went further, claiming a link between the concept of freedom in religion and what Allah says, i.e. 'For persecution is worse than slaughter'.<sup>145</sup> He claims that

<sup>142</sup> 'Abdal'ātī, Hammudah. *Islam in focus*, American Trust Publications, (U.S.A, 1975 AD), pp. 33-44. (Hereinafter cited as: 'Abdal'ātī, *Islam in focus*)

<sup>143</sup> Al-Mawdūdī, Sayyid abūl A'lā, *Towards understanding the Qur'ān*. English version of *Tafhim al-Qur'ān*, Translated and edited by Ansārī, Z. the Islamic foundation) Leicester, UK 1408 A.H/ 1988 A.D). Vol. 1, p 199.

<sup>144</sup> Al-Zuhāilī, Wahba, *al-Tafsīr al-Wasīt*, Dār al-Fikr al-Mu'āser and Dār al-Fikr (Beirut-Damascus, 1422 AH / 2001 AD), 1<sup>ST</sup> Edition, Vol. 1, pp. 148-149.

<sup>145</sup> Qur'ān, *al-Baqarah*: 191.

this phrase lays blame on those who persecute others for religious reasons.<sup>146</sup> He highlights that interference in the matter of religion is prohibited by Muslim law and that no one should be forced to accept another religion or be persecuted by others on the ground of their religion, whether in Muslim or non-Muslim territory.

An example from the Umayyad period showing freedom of religion is where Caliph al-Walīd Ibn ‘Abd al-Malik forcibly took possession of part of a Christian cathedral and incorporated it into a mosque in Damascus. When ‘Umar Ibn ‘Abd al-‘Azīz succeeded Yazīd Ibn al-Walīd Ibn ‘Abd al-Malik and became Caliph, the Christians of Damascus reported this injustice to him. ‘Umar wrote to his officer to pull down the portion of the mosque that had once belonged to the cathedral and the land was handed back to the Christians.<sup>147</sup>

When ‘Ammār Ibn Yāsir, one of the Prophet’s companions, was forced under torture to say that he was a disbeliever and made to curse Allah and the Prophet, a Qur’ānic verse was revealed to declare that what ‘Ammār had uttered was invalid since he had spoken those words under force. The translations of this verse says:

‘Anyone who, after accepting faith in Allah, declares himself unbeliever under compulsion is still a believer- his heart remaining firm in faith’.<sup>148</sup>

<sup>146</sup> Malekian, F, *The concept of Islamic international criminal law, a comparative study*, Graham & Trotman Ltd, (U.K, 1994 AD), p. 61.

<sup>147</sup> Al-Balādhurī, *Futūh al-Buldān*, op. cit., pp. 171-172

<sup>148</sup> Qur’ān, *An-Nahl.*: 106.

مَنْ كَفَرَ بِاللَّهِ مِنْ بَعْدِ إِيمَانِهِ إِلَّا مَنْ أُكْرِهَ وَقَلْبُهُ مُطْمَئِنٌّ بِالْإِيمَانِ

In comparison with the incident of ‘Ammār, one can say that the concept of compulsion of anyone is not acceptable in Islam. Furthermore, compulsion has never been an appropriate way of converting anyone to a religion. Therefore, it is logical to say once the force has been removed, the belief occurred under that force also will go; thus compulsion is useless. Furthermore, if someone is forced to take any action under pressure, he will be pushed into hypocrisy; as a result, the user of force will have to bear the responsibility of his own misbehaviour. The religious freedom of a non-Muslim is to be fully protected and he is to be given total freedom to profess his religion.

### 2.6.2 Obligations of *Dhimmīs*

Imām al-Māwardī says that in the *Dhimma* pact there are two kinds of condition. The first is obligatory and the second is recommended. He divides the obligations into six conditions. These are as follows:

1. Not to disparage or misquote the Book of Allah.
2. Not to accuse the Prophet of lying, or speak of him disparagingly.
3. Not to mention the religion of Islam with slander or calumny.
4. Not to approach a Muslim woman to commit fornication or with a view to marriage.
5. Not to try and undermine a Muslim faith in his religion or to cause harm to the Muslim wealth or religion.
6. Not to help the enemy or any of their spies.<sup>149</sup>

<sup>149</sup> Al-Māwardī, *al-Ahkām as-Sultāniyyah*, op. cit., pp. 210-211.

Ibn Qudāmah, a *Hanbalī* jurist states in his book *Al-Mughnī* that the *Dhimmi*'s obligations, can be summarized in five main obligations.<sup>150</sup>

1. Paying *Jizyah* and accepting the laws of Islam with regard to non-Muslims.
2. Not to harm Muslims in their lives and properties, i.e. not to beat Muslims or steal from them.
3. Not to denigrate or misquote the Book of Allah. Also not to accuse the Prophet of lying or speak of him disparagingly, and not to talk of the religion of Islam with slander or defamation.
4. To try and avoid those things prohibited by Muslims, such as drinking alcohol in Muslim public places.
5. To be distinct from Muslims by a special mark, i.e. by the imposition of the wearing of distinctive clothes.

Imam Al-Farrā', in discussing the obligations, said they should not hurt Muslims or cause harm to his wealth or religion; he summarised them in eight points:

1. Not to gather in preparation to fight against the Muslims.
2. Not to approach a Muslim woman to commit fornication.
3. Not to marry a Muslim woman.
4. Not to undermine a Muslim's faith in his religion.
5. Not to commit a highway robbery.
6. Not to support a spy.

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<sup>150</sup> Ibn Qudāma, Muwafaq al-Dīn, *al-Mughnī*, Edited by Khattāb, M; Al-Sayad, M and Sadeq, S). Dār al-Hadīth, (Cairo, 1416 AH / 1996 AD), 1<sup>st</sup> Edition, Vol.10, pp. 606-618. (Hereinafter cited as: Ibn Qudāma, *al-Mughnī*)

7. Not to write to the enemy about the situation of the Muslims.
8. Not to kill a Muslim man or woman.<sup>151</sup>

It is obvious that any citizen in any State must have a set of rights and, in return, he/she must have certain obligations. These rights and obligations are there to keep a balance in a society and help the State in its dealing with each individual and group. In the case of *Dhimmīs* citizens, the above rights seem to be a fair matter and indicate the spirit of tolerance in Islam. In addition, they are clear signs that Islam always works to fulfil its commitment to all citizens regardless. With regard to the obligations mentioned above, it can be said that Muslims too have obligations towards the Islamic State such as obedience, participating in military service, etc. In the case of *Dhimmīs*, it is not logical that a person living in a State should not have obligations along with their rights. For example, Muslims follow the instruction of a divine book, in this case the Qur'ān; therefore, one of the *Dhimmīs* obligations is that they are not allowed to speak badly about the Qur'ān. This seems to be a fair obligation.

## 2.7 An overview of *Jihād*

It should be borne in mind that this section is not meant to be research on the topic of *Jihād* in Islam. Such a subject would in itself need a whole thesis. In addition, necessary limitations of the thesis does not allow for the undertaking of such research. The researcher would like to note that one can refer to the literature of *fiqh*

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<sup>151</sup> Al-Farrā', *al-Ahkām as-Sultāniyyah*, *op. cit.*, p.158.



to know more about this subject.<sup>152</sup> However, the researcher found it necessary to give a brief discussion about the place of *Jihād* in Muslim treatment of Christian.

*Jihād* is literally derived from the Arabic word *J-h-d*, which means to struggle, strive, attempt, endeavour or make an effort. The word *Jihād* is also constructed from the Arabic word *Juhd*, which means exerting one's capacity and power in repelling the enemy to the extent of one's ability, whether by word or by deed.<sup>153</sup> The Qur'ān says:

'O ye who believe! Shall I lead you to a bargain that will save you from a grievous Chastisement?

That ye believe in Allah and his Messenger, and that ye strive (your utmost) in the cause of Allah, with your wealth and your persons: that will be best for you, if ye but knew!'<sup>154</sup>

Looking at the nature of Muslim treatment of non-Muslims, it can be seen that *Jihād* has played a great role. By referring to the above verse, it is obvious that Muslims are allowed to fight non-Muslims if non-Muslims fight against them. A review of the Prophetic traditions would show that he fought only in two situations. Firstly, when the Muslims were being attacked or when they expected an attack, such as being made aware of an enemy making preparation for aggression on the Muslim

<sup>152</sup> Among the vast literature is the latest book on *Jihād*; this has been written by the Syrian jurists, Haikal, Muhammad Khaïr: *al-Jihād wa al-Qitāl fī al-Siyāsa al-Shar'yyah*, Dār al-Baïrq, (Beirut 1417 AH / 1996 AD), 2<sup>ND</sup> Edition, in three Volumes.

<sup>153</sup> Ibn Manzūr, *Lisān al 'Arab*, *op. cit.*, Vol. 2, p. 397, see also Ibn 'Abdīn, *Rad al-Muhtār op. cit.*, Vol. 6, p. 197.

<sup>154</sup> Qur'an. *Al-Saff*: 10-11.

يَا أَيُّهَا الَّذِينَ آمَنُوا هَلْ أَدُلُّكُمْ عَلَىٰ تِجَارَةٍ تُنْجِيكُمْ مِّنْ عَذَابِ أَلِيمٍ \* تَوَافُونَ بِاللَّهِ وَرَسُولِهِ وَتُجَاهِدُونَ فِي سَبِيلِ اللَّهِ بِأَمْوَالِكُمْ وَأَنفُسِكُمْ دَلِّكُمْ خَيْرَ لَّكُمْ إِن كُنْتُمْ تَعْلَمُونَ \*

community. The Prophet (PBUH) in his wisdom could not have waited until his people had been attacked. The Qur'ān says:

'If then any one transgresses the prohibition against you, transgress ye likewise against him. But fear Allah, and know that Allah is with those who restrain themselves'.<sup>155</sup>

Secondly, the other situation arises when the king or leader of country sets up a barrier between his people and the Muslim call to Islam, and then persecutes the Muslims from among his people to make them give up their faith. In other words, fighting is to safeguard the Muslim call, being the call to justice, by making sure that the people are free to embrace Islam if they wish to and avoid their being in danger of persecution.

If a fight is unavoidable, non-Muslims should beforehand be given three choices.

These choices can be shown from the *Hadīth* narrated by Sulaīmān Ibn Burā'id.

'Whenever the Prophet appointed any one as a leader of any army or detachment, he exhorted him to fear Allah and to be good to the Muslims who were with him. He would say: '... When you meet your enemies who are non-Muslim invite them to three courses of action, if they respond to any one of them you also accept it and withhold yourself from doing them any harm: invite them to accept Islam:.. if they refuse to accept Islam, demand *Jizyah* from them. If they agree to pay, accept it from them and hold off your hands. If they refuse to pay the tax, seek Allah's help and fight them. ...'<sup>156</sup>

From this *Hadīth*, it can be clearly seen that three choices should be given to non-Muslims. Firstly, ask them to embrace Islam. Secondly, if they do not want this, then

<sup>155</sup> Qur'ān, *al-Baqarah*: 194.

فَمَنْ اعْتَدَى عَلَيْكُمْ فَاعْتَدُوا عَلَيْهِ بِمِثْلِ مَا اعْتَدَى عَلَيْكُمْ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ مَعَ الْمُتَّقِينَ

<sup>156</sup> Muslim, *Sahīh Muslim*, *op. cit.*, Vol. 3, pp.162-163, *Hadīth* No. 1731.

a pact should be concluded between Muslims and non-Muslims; and thirdly, if they do not agree to this, the last choice is to fight them. Therefore, *Jihād* is only the last choice and is usually used under specific circumstances when all other options fail. Even during *Jihād*, the Prophet would continue to advise his army and the Muslims against any transgression on the non-Muslims and avoid injustice in their actions. This kind of attitude is derived from the Qur'ān:

‘Fight in the cause of Allah those who fight you but do not transgress limits; For Allah loveth not the transgressor’.<sup>157</sup>

The purpose of *Jihād* is not to convert people to Islam. The Qur'ān says: ‘No compulsion in religion’. The real purpose of *Jihād* is to remove injustice and aggression. Muslims are allowed to keep good relations with non-Muslims. Islam teaches that fighting is used only against those who fight Muslims, as shown in the above verse.

*Jihād* is permissible in self-defence; Muslims are not allowed to take this as a permission to act wrongly or exceed limits. For example, the Prophet ordered his army to show mercy even on the field of battle. ‘Abduallah Ibn ‘Umar narrated:

‘During some of the *Ghazawāt* (expeditions) of the Prophet, a woman was found killed. The Prophet disapproved the killing of women and children’.<sup>158</sup>

<sup>157</sup> Qur'ān, *al-Baqarah*: 190.

وَقَاتِلُوا فِي سَبِيلِ اللَّهِ الَّذِينَ يُقَاتِلُونَكُمْ وَلَا تَعْدُوا إِنَّ اللَّهَ لَا يُحِبُّ الْمُعْتَدِينَ

<sup>158</sup> Al-Zubaidī, *Summarized Sahīh Al-Bukhārī. op. cit.*, p. 613, Hadīth No 1293.

The Prophet's companions followed the Prophet's footsteps in advising Muslims about what to do in the event of *Jihād*. For example, Abū Bakr, the first Caliph, ordered one of the departing armies to *Al-Shām*, as follows:

'I recommend you to fear Allah and obey Him. When you engage with the enemies and win over them do not loot, do not mutilate the dead, do not commit treachery, do not behave cowardly, do not kill children and elderly or women, do not burn trees or damage crops, do not kill animals unless lawfully acquired for food. You will come across men confined to hermitages in which they claim to have dedicated their lives to worshipping God, leave them alone. When you engage with the non-Muslims invite them to embrace Islam. If they don't wish to do so invite them to pay *Jizyah*. If they accept either, accept from them and stop fighting. But if they reject both, then fight them'.<sup>159</sup>

This was the usual practice of the Prophets and his companions in all wars. To conclude this section, war is not an objective of Islam nor is it the goal of Muslims. It is only the last choice, to be used when all other measures fail. In the Qur'ān there are sets of verses that contain vocabulary such as 'war', 'fight', and 'attack'. Those verses must be interpreted first of all within their historical context, where Muslims were under oppression and were endangered by aggressive threats.

## 2.8 The principle of tolerance in Islam

A central question that arises here is why has Islam treated and instructed the Muslims to deal with the non-Muslims in such a way? To answer this one should refer to the meaning and principle of tolerance in Islam. Islam provides Muslims with the basic principles of tolerance, derived from the Qur'ān, to guide them when

<sup>159</sup> Al-Wāqidī, Abū 'Abd Allah Muhammad Ibn 'Umar, *Futūh al-Shām*. Edited by al-Hāj H.al-Maktaba al-Tawfīqiya, (Cairo), n.d, Vol. 1, pp. 20-21, (Hereinafter cited as: Al-Wāqidī, *Futūh al-Shām*)

dealing with non-Muslims. Siddīqī, a Pakistani scholar, defines this term by saying that the word 'tolerance' literally means 'to bear.' As a concept it means 'respect, acceptance and appreciation of the rich diversity of the world's cultures, forms of expression and ways of being human.' In Arabic it is '*Tasāmuh*'. Other words give similar meanings, such as '*Hilm*' (forbearance), '*Afu*' (pardon, forgiveness) or '*Safh*' (overlooking, disregarding).<sup>160</sup> Thus it means to hold something as acceptable or bearable. He adds that tolerance is a basic principle of Islam. It is a religious moral duty. It does not mean 'concession, condescension or indulgence'. It does not mean lack of principles, or lack of seriousness about one's principles.

Al-Qaradāwy discussed the issue behind the principles of tolerance and came to the conclusion that the basis of the idea of tolerance in Muslim relations with non-Muslims can be traced to the well-grounded facts which Islam inculcated in the hearts of Muslims and in their thinking faculty. He summarised the most significant principles into four main reasons, i.e. tolerance comes from the recognition of the following four basic aspects. Firstly, the belief of every Muslim in the dignity of human beings regardless of religion, race or colour. Qur'ān can demonstrate this fact:

'We have honoured the sons of Adam'<sup>161</sup>

Al-Qaradāwy adds that this established dignity is obligatory upon Muslims to give every person the right of respect and protection.<sup>162</sup> A tradition in *Sahīh al-Bukhārī*

<sup>160</sup> Siddīqī, Muzammil H, Spirit of Tolerance in Islam.

<http://www.messageonline.org/2002aprilmay/cover5.htm> seen at 12-03-2002.

<sup>161</sup> Qur'ān: *al-Isrā'*: 70.

gives an example of how this principle should be followed in practice. According to this tradition, when the Prophet (PBUH) was in *Madīnah*, he saw a funeral procession passing along a street. The Prophet was seated at that time. On seeing it, the Prophet stood up as a sign of respect to the deceased person. One of his companions said: 'O Allah's messenger, it was the funeral of a Jew (i.e. not a Muslim).' The Prophet replied: 'Was he not (*Nafsan*) a human?'<sup>163</sup> The researcher believes that this example shows that every human being is worthy of respect. Despite differences between people in religion, culture and traditions, it is obligatory upon everyone to accord equal respect to each other, as all men and women are creatures of one and the same creator.

Secondly, Muslims believe that differences among people in religion are a practical fact according to the will of Allah, who has granted these types of people the freedom and choice of what to do and what not to do. The Qur'ānic translation says:

'If the Lord had so willed, He could have made mankind into one nation: but they will continue in their differences'.<sup>164</sup>

Thirdly, a Muslim is not entitled to judge non-believers on their religion or to punish those who have gone astray, as this is not for him to do so. The Qur'ān says:

'And if they argue with you, say, Allah knows best what you are doing. Allah will judge between you on the Day of Judgment concerning the matter on which you differ'.<sup>165</sup>

<sup>162</sup> Al-Qaradāwy, Yūsuf, *Ghāir al-Muslimīn fī al-Mujtama' al-Islāmī*, Mu'asaset al-Risāla (Beirut, 1404 AH /1983 AD), 2<sup>ND</sup> Edition, pp. 48-49, (Hereinafter cited as: Al-Qaradāwy, *Ghāir al-Muslimīn*).

<sup>163</sup> Al-Bukhārī, *Sahīh Al-Bukhārī*, *op. cit.*, Vol. 1, Part 2, p. 87, See also Abū Dāwūd, *Sunan Abī Dāwūd*, *op. cit.*, Vol. 3, p.200, Hadith No: 3174.

<sup>164</sup> Quran: *Hūd*, 118.

وَلَوْ شَاءَ رَبُّكَ لَجَعَلَ النَّاسَ أُمَّةً وَاحِدَةً وَلَا يَزَالُونَ مُخْتَلِفِينَ

<sup>165</sup> Qur'ān. *Al-Hajj*: 68-69

Lastly, Muslims believe that Allah enjoins justice and equity even in the case of non-Muslims. Justice is the foundation of a good society. Allah commands justice and fair dealing with all people.<sup>166</sup>

Al-Fārūqī (died 1986), a Palestinian scholar, discussed the basic idea of tolerance towards non-Muslims from a different angle. In his argument, he distinguished the attitude of world religions towards non-believers. He came to the conclusion that all world religions, whether universal religions, for example Christianity and Buddhism or ethnic religions, for example Hinduism and Judaism condemned non-believers. However, Islam had a totally different approach towards non-Muslims. Al-Fārūqī attributed the acknowledgment of Islam towards non-Muslims to three distinct levels. The first is humanism, in that Islam introduced the concept of *dīn al-fitrah*, which means that Allah endows all human beings at their birth with a religion that is true and valid for all time and that is Islam, however, as they grow up they can deviate from this path. The second is revelational universalism, in that Muslims and People of the Book are equal in their having once been the object of divine communication. i.e. having a revealed books. The last is that Islam acknowledges the Prophets of the two religions, Judaism and Christianity, as genuine Prophets of Allah, and accepts them as Islam's own. This, as a result, has narrowed the gap between Muslims, Jews and Christians to an absolute minimum.<sup>167</sup> From the basis of what has been mentioned above, the researcher believes that Islam did not see non-Muslims as strange creatures, but used the above as the basis on which to build bridge between Muslims and non-Muslims.

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وَأِنْ جَادَلُوكَ فَقُلِ اللَّهُ أَعْلَمُ بِمَا تَعْمَلُونَ \* اللَّهُ يَحْكُمُ بَيْنَكُمْ يَوْمَ الْقِيَامَةِ فِيمَا كُنْتُمْ فِيهِ تَخْتَلِفُونَ \*

<sup>166</sup> Al-Qaradāwī, *Ghaīr al-Muslimīn*, op. cit., p. 50.

<sup>167</sup> Al-Fārūqī, *Islam and other faiths*, op. cit., pp. 281-288,

## 2.9 Conclusion

From the above discussion, it can be concluded that guidelines for Muslim treatment of non-Muslims is clearly spelled out in the Qur'ānic verses, Prophetic traditions, and the practices of the Prophet and his Caliphs. Most of the fundamental human rights are guaranteed, such as the right to life, the right to personal freedom, the right to justice, the right to equality, and all should be implemented without any distinction of colour, social class, creed, sex or religion i.e. they preserve the right of freedom of religion. Muslims who follow and implement these Islamic guidelines will be adhering to Islam. Any deviation from the above does not reflect the actual way of dealing with *Dhimmīs*. However, the fact remains that the scheme of tolerance and fair treatment envisaged by Islam finds no parallel in the history of nations.

On regulating the Islamic society where *Dhimmīs* had to pay *Jizyah*, the Prophet (PBUH) was keen not to make those taxes an indirect pressure on non-Muslims. Muslim scholars commanded that the sums of taxes be proportionate with the economic capability of a non-Muslim. *Jizyah* was not enforced on them as a kind of punishment because they refused to convert to Islam or to humiliate them. Quite the contrary, it was meant to enhance their feelings of citizenship, since it was clear that *Jizyah* was paid to cover the expenses of protecting non-Muslims from outside attack. As citizens they had the right to share in their society's protection. Moreover, the poor among them did not have to pay the *Jizyah* and, like Muslims, had the right to be financially supported. In short they had the full right of citizenship.



## CHAPTER THREE

### Two cases illustrating Muslim treatment of Christians at the time of 'Umar Ibn al-Khattāb.

#### 3.1 Introduction

To begin with, it must be borne in mind that the Qur'ānic verse '*let there be no compulsion in religion*'<sup>1</sup> was the cornerstone that controlled Muslims in their relations with the Christians in religious matters, during the time of the second Caliph 'Umar Ibn al-Khattāb. Therefore, it can be clearly noted that neither Muslim jurists, chronicles nor orientalists in past or present times have provided any example of any incident in which a Christian has been forced to embrace Islam. In fact, Islamic history and Islamic law literature clearly shows a large number of incidents affirming the concept of the freedom of religion at that time. For example, Abū-'Ubayd in his book *Al-Amwāl*, cited the story of Caliph 'Umar and his personal Christian servant Astīq.<sup>2</sup> 'Umar frequently tried to convince Astīq to embrace Islam but, when he refused, 'Umar did not do anything except recite the words of the Holy Qur'ān, '*let there be no compulsion in religion*'.<sup>3</sup> Astīq mentioned that, when 'Umar was about to die; he freed him from slavery and told him that he was free to go wherever he wanted. This bears witness to the spirit of tolerance in that, despite his

<sup>1</sup> Qur'ān, *Al-Baqarah*, 256.

<sup>2</sup> Abū-'Ubayd, *Kitāb Al-Amwāl*, *op. cit.*, p. 39.

<sup>3</sup> Qur'ān, *Al-Baqarah*, 256.

‘لَا إِكْرَاهَ فِي الدِّينِ’

immense power as leader of the Islamic nation, 'Umar propagated Islam only to the extent of exhortation and persuasion. Beyond that, he made it clear that nobody could be compelled by any person to change his/her religion. This tolerance can be seen clearly in the pacts and treaties concluded with conquered peoples.<sup>4</sup> Therefore, there is a need to examine and critically analyse some of these pacts and treaties in order to evaluate the accuracy and degree of tolerance attributed to Caliph 'Umar. The discussion deals with cases relating to the Islamic State in general, and includes the cases of Banū Taghlib and the pact of 'Umar known as *al-Shurūt al 'Umarīya*.

## 3.2 The allegation for unjust treatment of the Christians

### 3.2.1 The case of Banū Taghlib

One of the most important issues to take place in the era of 'Umar, and which highlighted the Muslim treatment of Christians, was the peace treaty with the Christian tribe Banū Taghlib. This incident has been mentioned in the literature by a number of jurists, historian and orientlists, who came to the conclusion that the document issued to Banū Taghlib was the work of 'Umar.<sup>5</sup>

The discussion of the issue of Banū Taghlib requires answers to the following questions. Is it true that 'Umar was the instigator of those conditions? Were Banū Taghlib really exempted from paying the *Jizyah*? Were they prohibited from baptising their children? Before answering these questions, it should be borne in

<sup>4</sup> In addition, the conduct of Caliph 'Umar towards the Christians who were in the Islamic State clearly demonstrated total adherence to the concept of freedom of religion.

<sup>5</sup> Abū-'Ubayd, *Kitāb Al-Amwāl*, *op. cit.*, pp. 33-35, See also Al-Balādhurī, *Futūh al-Buldān*, *op. cit.*, pp.249-252, Abū Yūsuf, *Kitāb ul-Kharāj*, *op. cit.*, pp. 120-121, Abū Yūsuf, *Islamic Revenue Code*, *op. cit.*, pp. 240-244, Ibn Ādam, Yahyā, *Kitāb al-Kharāj*, Dār al-Ma'rifa (Beirut), n.d, pp.65-68, (Hereinafter cited as: Ibn Ādam, *Kitāb al-Kharāj*)

mind that the attribution of such orders to 'Umar was mainly a result of relying on different text books such as those of Abū-'Ubayd, Abū Yūsuf, al-Balādhurī, Yahyā Ibn Ādam and others. Their narrations were in the form of discussion between 'Umar and his companions on the issue of Banū Taghlib, with regard to their geographical location, on their being a powerful tribe and, finally, what Muslims could offer to avoid antagonising them.<sup>6</sup>

It is also important to give a brief historical background to the circumstances regarding the need for this peace treaty and the need for imposing such conditions. To start with, al-Tabarī reported that in the year 17 AH. An expedition under the leadership of al-Walīd Ibn 'Uqbah took place, to continue the conquest of the surrounding lands of the Arab peninsula. The expedition passed through several areas until it reached Banū Taghlib's tribe, where it found that many had already left and sought refuge in the Byzantine State. When 'Umar was informed about this, he wrote to the emperor demanding their extradition from the Byzantines country otherwise he would expel all Arab Christians to the Byzantine State. As a response to this threat, the emperor sent them back.<sup>7</sup> Al-Tabarī adds that four thousand people returned. Immediately on their return, al-Walīd Ibn 'Uqbah was very assertive with

<sup>6</sup> Abū-'Ubayd, *Kitāb Al-Amwāl*, *op. cit.*, pp. 33-35; See Also Al-Balādhurī, *Futūh al-Buldān*, *op. cit.*, pp.249-252, Abū Yūsuf, *Kitāb ul-Kharāj*, *op. cit.*, pp. 120-121. Abū Yūsuf, *Islamic Revenue Code*, *op. cit.*, pp. 240-4, Ibn Ādam, , *Kitāb al-Kharāj*, *op. cit.*, pp. 65-68.

<sup>7</sup> Al-Tabarī, Abū Ja'far Muhammad Ibn Jarīr, *Tārīkh al-Umam wa al-Mulūk* Manshūrāt Muhammad 'Alī Baydūn. Dār al-Kutub al-'Ilmiya, (Beirut 1417 AH /1997 AD), 3<sup>RD</sup> Edition, Vol. 2, p. 485,(Herinafter cited as: Al-Tabarī, *Tārīkh al-Umam*), Ibn al-Athīr, *al-Kāmil*, *op. cit.*, Vol. 2, pp. 377-378.

them and refused to accept anything from them except their converting to Islam. When they refused to do this, al-Walīd wrote to 'Umar about them.<sup>8</sup> 'Umar replied:

'That rule (which you want to impose upon them) is only applicable to the Arabian Peninsula; nothing but strict surrender to Islam is acceptable for those living in the Arabian Peninsula. But leave the people of Banū Taghlib as they are, on the condition that they do not bring up their (newborn) children in Christian fashion, and accept if any member of Banū Taghlib embrace Islam'.<sup>9</sup>

Once al-Walīd received this letter from 'Umar, he acted upon it and agreed with Banū Taghlib that they would not christen their newborn babies and would not prevent anyone from embracing Islam. In addition, he requested them to pay the *Jizyah*. They agreed to the first two conditions, but refused to pay money under the term of *Jizyah*. As a result, and according to al-Tabarī, al-Walīd sent 'Umar the heads and leaders of the Christian tribes. On their arrival 'Umar asked them to pay the *Jizyah*. But they said to 'Umar that they would speak about this if he granted them safety. 'Umar approved their request and then they said that they considered paying *Jizyah* as beneath their dignity as Arabs,<sup>10</sup> and humiliation to their pride if it were to be levied in return for protection of life and property; they threatened to leave the area and go back to the Byzantine State if the Muslims insisted on collecting the money under the term of *Jizyah*.<sup>11</sup> 'Umar discussed the issue with his companions and, according to Yahyā Ibn Ādam, in his book *Kitāb al-Kharāj*:

<sup>8</sup> Al-Tabarī, *Tārīkh al-Umam*, *op. cit.*, Vol. 2, p. 485, Ibn al-Athīr, *al-Kāmil op. cit.*, Vol. 2, p. 378.

<sup>9</sup> Al-Tabarī, *Tārīkh al-Umam*, *op. cit.*, Vol. 2, p. 485, and, Al-Tabarī, *The History of al-Tabarī*, Translated and annotated by Juynboll, Gautier H.A, State University of New York Press (Albany-New York 1989 AD), Vol. XIII, p. 90, Ibn al-Athīr, *al-Kāmil*, *op. cit.*, Vol. 2, p. 378.

<sup>10</sup> Al-Tabarī, *Tārīkh al-Umam*, *op. cit.*, Vol. 2, 485, also see Al-Māwardī, Muhammad, *al-Hāwī al-Kabīr*, *op. cit.*, Vol. 18, p. 399,

<sup>11</sup> Al-Tabarī, *Tārīkh al-Umam*, *op. cit.*, Vol. 2, p. 485.

“‘Ubāda Ibn al-Nu‘mān said to ‘Umar Ibn al-Khattāb: O commander of the Faithful! You know the might of Banū Taghlib, that they are living close to the enemy, and should they assist the enemy against you, it would be a burdensome affair. Therefore, if you decide to give them something, do so. Thereupon he made a treaty with them, making a condition that they should not baptize any of their children as Christians and that for them the *Sadaqa* (Charity) should be doubled. ‘Ubāda used to say: they had a treaty but they did not act accordingly.’<sup>12</sup>

Caliph ‘Umar ordered that their wish be granted, saying:

‘Do not humble Arabs, take the *Sadaqa* from Banū Taghlib’<sup>13</sup>

From the above, it can be seen that under the peace terms with Banū Taghlib, the Christians must not baptize their children, and that for them the *Sadaqa* (charity) should be doubled, i.e. they were to pay double compared to what the Muslims paid. Furthermore, not one of them should be forced to change his/her religion.<sup>14</sup>

Relying on the above-mentioned references, the only conclusion can be that ‘Umar was the first to establish these conditions to the Banū Taghlib. However, after researching other literature sources of many Muslim historians, the researcher is confident that ‘Umar was not the person who issued such conditions; in fact, the person to do so was the Prophet Muhammad himself. Ibn Sa‘d narrates:

<sup>12</sup> Ben Shemesh, A, *Taxation in Islam, the English Translation of Yahyā Ibn Adams’s Kitāb al-Kharāj*, With a Foreword by Goitein S.D, E. J. Brill, Leiden, (Netherlands, 1958 AD). Vol. 1, p. 55. (Hereinafter cited as: Ben Shemesh, *Taxation in Islam*)

<sup>13</sup> Ibid., p.195

<sup>14</sup> ‘Azzām, ‘Abd-al-Rahmān, *The Eternal Message of Muhammad*, Translated from Arabic to English by Farah, C. Quartet books Ltd, (London, 1979 AD), p. 55. (Hereinafter cited as: ‘Azzām, *The Eternal Message*)

' Muhammad Ibn 'Umar al-Aslamī informed us: he said: Abū Bakr Ibn 'Abd Allah Ibn Abī Sarah related to me on the authority of Ya'qūb Ibn Zayd Ibn Talhah he said: a deputation of Banū Taghlib, consisting of sixteen believers, and Christians with golden crosses waited on the Apostle of Allah. They stayed in the house of Ramlah Bint al-Hārith. The apostle of Allah made peace with the Christians on the condition that they would not baptize their children into Christianity. He gave generous rewards to the faithful among them'.<sup>15</sup>

It is worth mentioning that this narration has been mentioned in Ibn Sa'd's book, in the section which deals with the different delegations who came to the Prophet asking for safe conduct in the year 9 AH (630 AD).<sup>16</sup> Ibn Sa'd was one of the scholars who went into great depths and thoroughly examined all the reports regarding the delegations. Al-Tabarī mentioned a narration which contains some conditions similar to those of Ibn Sa'd's but added that these conditions were limited to the Christians among the Banū Taghlib's delegation, and those who had delegated them for such a task.<sup>17</sup> Therefore, they were the only ones prohibited from baptising their children.

It seems that both Ibn Sa'd's and Al-Tabarī's narrations had solved a major issue regarding who was the first to give these conditions. According to their narrations, the Prophet Muhammad (PBUH) was the first to issue the conditions -whether relying on Ibn Sa'd's narration, which covers the whole of the Banū Taghlib tribe, or al-Tabarī's version that covers only some members of the Banū Taghlib. The result is the same, in that 'Umar was not the originator of such conditions. The matter becomes much clearer when, according to al-Tabarī, the Muslims of the Banū

<sup>15</sup> Ibn Sa'd, *Kitāb al-Tabaqāt*, op. cit., Vol. 1, p. 239, See also Ibn Sa'd, *Kitāb al-Tabaqāt al-Kabīr*, Translated into English by Haq S.M. and Ghazanfar H.K, Pakistān Historical Society, (Karachi 1967 AD), Vol. 1. Part 2, p. 373.

<sup>16</sup> Ibn Sa'd, *Kitāb al-Tabaqāt*, op. cit., Vol. 1, pp. 222-270.

<sup>17</sup> Al-Tabarī, *Tārīkh al-Umam*, op. cit., Vol. 2, p. 485.

Taghlib themselves requested Prophet Muhammad to establish these conditions<sup>18</sup> in order to protect their children in the future, especially during times of war. That is to say, the Muslims of Banū Taghlib were trying to protect their children from being baptized after their (Muslim) parents' death, which seems logical.

Regarding the issue of *Jizyah*, it is well known that only certain people were exempted from paying *Jizyah*; these included *Dhimmīs* who participate in *Jihād* with Muslims, women, children and the elderly, as shown in the previous chapter. With regard to Banū Taghlib, what happened was not an exemption from paying *Jizyah* but was in fact a form of appeasing them by changing the term of *Jizyah* to *Sadaqa*, provided that, the amount of this *Sadaqa* was doubled. It is worth mentioning that the term *Jizyah* was never revered; it was a terminology used to define the amount of money taken from *Dhimmīs*. Therefore, the researcher argues that 'Umar's decision to call this amount of money *Sadaqa* is not objectionable so long as the money ends up in the Muslim treasury (*Baīt al-Māl*).

Now that it is clear who the originator of these conditions to Banū Taghlib was, the question is, Why did Caliph 'Umar re-impose these conditions? To answer this, one needs to go back and take a closer look at the circumstances which surrounded the re-imposing of such conditions. Shiblī Nu'mānī suggests that a jurisprudential argument took place during 'Umar's term of office about the religion of those young children whose fathers belonged to a Christian tribe but had embraced Islam before their death.<sup>19</sup> Would these children be treated as Muslims or as Christians? And would their relatives have the right to baptize them and bring them up as Christians?

<sup>18</sup> Al-Tabarī, *Tārīkh al-Umam*, op. cit., Vol. 2, p. 485.

<sup>19</sup> Nu'mānī, *'Umar the Great*, op. cit., Vol. 2, p. 182.

In response, 'Umar decreed that in these particular circumstances their relatives should not baptize them or bring them up as Christians.<sup>20</sup> This is in line with the *Shari'ah* principles and rules, that the children of a Muslim father should inherit Islam from their father and should therefore be treated as Muslims. Al-Tabarī, discussing the prohibition to Banū Taghlib, quotes the following words from the treaty that was concluded with them:

'They shall not Christianise the children of those who have already embraced Islam.'<sup>21</sup>

Shiblī Nu'mānī argues that the condition was not based on a hypothetical situation, because a number of people from among Banū Taghlib really did embrace Islam, and it was necessary to insert a provision in the treaty to safeguard their interest and that of their children.<sup>22</sup> However, Caetani, a well-known Italian orientalist argues that the Christian families of the Banū Taghlib suggested these conditions themselves, for economic reasons.<sup>23</sup>

'Umar was merciful with the Banū Taghlib; Yahyā Ibn Ādam reported that Ziyād Ibn Hudayr used to tax the Banū Taghlib several times a year. One of the elderly went to 'Umar, and told him about this and 'Umar said to him '*You will be relieved from that*, and 'Umar wrote to Ziyād ordering him not to tax them more than once a year.'<sup>24</sup> Despite 'Umar's merciful treatment, there were some reports that stated that 'Umar used to instruct his workers to deal firmly with Banū Taghlib. For example, when

<sup>20</sup> Ibid., p.182.

<sup>21</sup> Al-Tabarī, *Tārīkh al-Umam*, op. cit., Vol. 2, p.485.

<sup>22</sup> Nu'mānī, *'Umar the Great*, op. cit., Vol. 2, p. 183.

<sup>23</sup> Caetani, Leone, *Annali Dell Islam*, Ulrico Hoeli, (Millan-Itali 1910 AD), Vol. 2, p. 299, (Hereinafter cited as: Caetani, *Annali Dell Islam*).

<sup>24</sup> Ben Shemesh, *Taxation in Islām*, op. cit., Vol. 1, p. 56.



'Umar dispatched Ziyād Ibn Hudayr to Banū Taghlib to collect '*Ushr* (one-tenth),<sup>25</sup> 'Umar ordered him to be firm with the Christians of the Banū Taghlib because they were Arabs and, as a result, might accept Islam; 'Umar had never considered them and the other Christians in the Arab peninsula as true Christians. He did not agree with marrying their women or eating their slaughtered animals, although Islam allowed these things with Christians. 'Umar went further in saying that the Christians of the Banū Taghlib got nothing from Christianity other than drinking alcohol and eating pork. 'Alī Ibn Abū-Tālib had the same point of view, according to al-Shāfi'ī.<sup>26</sup>

A further question is, to what extent did the Christians of Banū Taghlib follow this condition? It seems that, despite the prohibition, the Christians of Banū Taghlib continued to baptize the children of deceased Muslims. The evidence is mentioned above in the narration of 'Ubāda: 'they had a treaty but they did not act accordingly'.<sup>27</sup> In addition to what 'Alī Ibn Abū-Tālib said:

'If I have an opportunity, I will deal with Banū Taghlib my way, I will execute their warriors; and I will enslave their women because they broke the agreement. Therefore, I am free from any responsibility towards them from the day they baptized the deceased Muslim children'.<sup>28</sup>

To conclude, the case of the Christians of Banū Taghlib demonstrates clearly how Caliph 'Umar did not, in any way, infiltrate into the concept of freedom of religion.

<sup>25</sup> A percentage (One-tenth) to be taken from the trading between the *Dhimmī* and the non-Muslim (*Harbī*), who have no covenant with the Islamic State, when they pass through Islamic territory. Or one-tenth of the yield of land to be levied for public assistance.

<sup>26</sup> Al-Shāfi'ī, *Kitāb al-Umm*, *op. cit.*, Vol. 2, 364.

<sup>27</sup> Ibn Ādam, *Kitāb al-Kharāj*, *op. cit.*, p. 62, Ben Shemesh, *Taxation in Islām*, *op. cit.*, Vol. 1, p. 55

<sup>28</sup> Al-Balādhurī, *Futūh al-Buldān*, *op. cit.*, pp. 251-252.

Moreover, it can be seen that the term *Jizyah* can be taken under any name, as long as the non-Muslims comply with paying the agreed amount.

### 3.2.2 The Pact of 'Umar

The pact of 'Umar or '*ahd 'Umar*<sup>29</sup> is a basic document outlining the obligations of non-Muslims living in the Islamic State and defining the relationship of the *Dhimmīs* with Muslims and with the Islamic State.<sup>30</sup> The question is, Why is there a need to study the pact of 'Umar? The main reason is to study the treatment of Muslim to Christians in the Islamic State, in general, and at the time when 'Umar Ibn al-Khattāb was the Caliph and the head of the State. This pact has been considered by some scholars as being the basic foundation of the treatment of non-Muslims. It also reflects the general teaching of Islam concerning non-Muslims. This view, however, has been opposed by a number of scholars, as will be seen later. The problem appears to be that, during some periods of Islamic history, the justification to treat Christians in a biased way was seen as an allegation under the pretext of implementing the pact of 'Umar. Meanwhile, the examination of 'Umar's practice in his treatment of non-Muslims shows him to be extremely tolerant and always exemplary in his efforts to follow the instructions of the Qur'ān and the *Sunnah* of the Prophet.

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<sup>29</sup> Known in Arabic as *al-Shurūt al-'Umarīya*.

<sup>30</sup> Cohen, Mark, *What was the pact of 'Umar? A Literary-Historical Study*, Jerusalem Studies in Arabic and Islam, Jerusalem: the Hebrew University, No, 23, (1999 AD), p.100. (Hereinafter cited as: Cohen, *What was the pact of 'Umar?*)

There are different opinions concerning the attribution of the pact to 'Umar. Jurists and historians, such as al-Khalāl (died 311AH/923 AD),<sup>31</sup> Ibn Hazm (died 456 AH/1063AD),<sup>32</sup> Al-Turtūshī (died 520AH/1126AD),<sup>33</sup> Ibn Qdāma (died 630AH/1233AD),<sup>34</sup> Ibn Taymiyah (died 728 AH/1328 AD),<sup>35</sup> Ibn 'Asākīr (died 571 AH/1176 AD),<sup>36</sup> Ibn Al-Qayyim (died 751 AH/1350 AD),<sup>37</sup> Ibn Kathīr (died 774 AH/1373 AD),<sup>38</sup> Al-Hindī (died 975 AH/1567 AD),<sup>39</sup> 'Alī 'Ajīn,<sup>40</sup> agreed that the

<sup>31</sup> Al-Khalāl, Abū Bakr Ahmad Ibn Muhammad, *Ahl al-Milah wa al-Ridah wa al-Zanādiqah wa Tārik al-Salāh wa al-Farā'd Min Kitāb al-Jāme'*, Edited by al-Sultān I. Maktabet al-Ma'āref lil Nasher wa al-Tawzī', (Riyadh, 1416 AH/ 1996 AD), Vol. 2, pp. 431-434.

<sup>32</sup> Ibn Hazm, Abū Muhammad 'Alī Ibn Ahmad, *Mrātib al-Ijmā' fī al-'Bādāt wa al-Mu'āmalāt wa al-Mu'taqadāt*, Dār al-Āfāq al-Jadīda, (Beirut 1978) 1<sup>ST</sup> Edition, pp.134-135. See also Ibn Hazm. Abū Muhammad 'Alī Ibn Ahmad *Al-Muhallā bil Ather*. Edited by al-Bandārī, A, Dār Al-Kutub al-'Ilmiya (Beirut 1405AH / 1984 AD), Vol. 3, p.346.

<sup>33</sup> Al-Turtūshī, Abū Bakr Muhammad, *Sirāj al-Mulūk*, Edited by al-Byātī, J, Rīād El-Rayyas Book Ltd, (London 1990). 1<sup>ST</sup> Edition, pp. 401-402. (Hereinafter cited as: Al-Turtūshī, *Sirāj al-Mulūk*)

<sup>34</sup> Ibn Qudāma, Muwafaq al-Dīn, *al-Mughnī*, Edited by Khattāb, M, Al-Sayad, M Sadeq, S). Dār al-Hadīth, (Cairo, 1416 AH / 1996AD), 1<sup>st</sup> Edition. Vol. 12, pp 816-8. See also Ibn-Qudāma al-Maqdesī. *al-Sharh al-Kabīr*, Edited by Khattāb, M; Al-Sayad, M. Sādeq, S. Dār al-Hadīth, (Cairo 1416 AH/1996 AD), 1<sup>st</sup> Edition, Vol. 12, pp. 806-809.

<sup>35</sup> Ibn Taymīyah, *Majmū' fatāwa shaikh al-Islām, op. cit.*, Vol. 28, pp 651-3. See also Ibn Taymīyah, Ahmad 'Abd al-Halīm, *Eqtedā' al-Serāt al-Mustaqīm li mukhālfet Ashāb al-Jahīm*, Edited by al-'Aqel, N. Maktabat al-Rushed, (Riyadh 1417 AH /1996 AD) 5<sup>th</sup> Edition, Vol.1, pp. 225-226. (Hereinafter cited as: Ibn Taymīyah, *Eqtedā' al-Serāt al-Mustaqīm*)

<sup>36</sup> Ibn 'Asakīr. *Tārīkh Madīnat Dimashq*, Edited by al-'Ummrwi, M, Dār al-fikr (Lebanon, 1415 AH/ 1995AD), Vol. 2, pp. 174-85. (Hereinafter cited as: Ibn 'Asakīr. *Tārīkh Madīnat Dimashq*)

<sup>37</sup> Ibn al-Qayyim, Muhammad Abī Bakr, al-Jawziyya, *Ahkām Ahl al-Dhimma*, Edited by Sa'ad, T. Dār al-Kutub al-'Ilmiya, (Beirut. 1415 AH / 1995 AD), 1<sup>ST</sup> Edition, Vol. 2, pp. 113-115. Also see Ibn al-Qayyim. *Sharh al-Shurūt al-'Umarīyya* Edited by al-Sālih, S. Dār al-'Ilm li-lmalāin. (Beirut. 1401 AH / 1981AD), 2<sup>nd</sup> Edition, pp. 1-7. (Hereinafter cited as: Ibn al-Qayyim, *Sharh al-Shurūt*)

<sup>38</sup> Ibn Kathīr, *Tafsīr al-Qur'ān al-'Azīm, op. cit.*, Vol. 2, p 458.

<sup>39</sup> Al-Hindī, 'Alā' al-Dīn Ibn 'Alī al-Muttaqī, *Kanz al-'Umāl fī Sunan al-Aqwāl wa al-Af'āl*, Edited by al-Dimīātī M.A, Manshūrāt Muhammad 'Alī Baydūn. Dār al-Kutub al-'Ilmiya, (Beirut 1419 AH /1998 AD), 1<sup>ST</sup> Edition, Vol 4. Hadīth Number 11489, pp. 215-216.

<sup>40</sup> 'Ajīn, A. *Al-'Uhda al-'Umarīya, (Derāsa Naqdeyya)*. Al- Hikma Journal (no. 10, 1417 AH), pp. 75-87. (Hereinafter cited as: 'Ajīn, *Al-'Uhda al-'Umarīya*).

pact could be attributed to 'Umar. Jurists like Al-Sālih,<sup>41</sup> Hamām Sa'īd,<sup>42</sup> Zakarīyyā Al-Quda<sup>43</sup> and Orientalists like Caetani (died 1935)<sup>44</sup> Tritton,<sup>45</sup> and Cohen<sup>46</sup> doubted the authenticity of this attribution to 'Umar. The argument of each group was strongly based on their analysis of the text of the document, considering the socio-political situations and the practical examples of Caliph 'Umar towards the Christians who were living in the Islamic State.

From studying the pact of 'Umar, one can discover that there are several versions of it and that there are similarities amongst them, as well as differences either in the vocabulary or in the order of some of the sentences, and some differ in detail, with regard to both stipulations and literary structure. Some western orientalists claim that Ibn Hazm documented the first appearance of the pact of 'Umar in his book *Mrāth al-Ijmā' fī al-'Ibādāt wa al-Mu'āmalāt wa al-Mu'taqadāt*.<sup>47</sup> This has been discovered to be a serious mistake since the researcher found the first version to be documented by Al-Khalāl. The difficulty of obtaining this source made the use of Ibn 'Asākir's version unavoidable. Ibn 'Asākir's documented version, one of the earliest written and one that has attracted most scholars' attention, is the most often cited,

<sup>41</sup> Ibn al-Qayyim, Muhammad Abī Bakr, *Sharh al-Shurūt al-'Umarīyya*, Edited by al-Sālih, S. Dār al-'Ilm li-lmalānī, (Beirut. 1401 AH /1981AD), 2<sup>nd</sup> Edition, pp. 1-7.

<sup>42</sup> Sa'īd, Hamām. *al-Wad' al-Qānūnī Li Ahl al-Dhimma*. Article in the Jordan University Journal. File 9. No. 1. June 1982 AD, p. 79. (Hereinafter cited as: Sa'īd, *al-Wad' al-Qānūnī*)

<sup>43</sup> Al-Quda, Zakariyya, *Mū'āhadit fatih Baīt al-Maqdis: al-'Uhda al-'Umarīyya* in Muhammad al-Bakhīt and Ihsān 'Abāss (edes.), *Bilād al-Shām fī Sader al-Islām*, University of Jordan and University of Yarmūk, Jordan, 1987 AD. Vol. 2, pp. 278-282. (Hereinafter cited as: Al-Quda, *Mū'āhadit fatih Baīt al-Maqdis*)

<sup>44</sup> Caetani, *Annali Dell Islam*, *op. cit.*, Vol. 3, pp. 957-959.

<sup>45</sup> Tritton, *The Caliphs*, *op. cit.*, pp. 5-17.

<sup>46</sup> Cohen, *What was the pact of 'Umar?*, *op. cit.*, pp. 100-131.

<sup>47</sup> Caetani, *Annali Dell Islam*, *op. cit.*, Vol. 3, p. 957. Arnold T.W, *The Preaching of Islam, A History of the Propagation of the Muslim Faith*, Constable and Company Ltd, (London 1913 AD), 2<sup>ND</sup> Edition, p. 59. (Hereinafter cited as: Arnold, *The Preaching of Islam*)

after those of Al-Khalāl and Al-Turtūshī.<sup>48</sup> This version, selected as an example, cites the pact as follows:

'Abd al-Rahmān Ibn Ghanam [died 78 AH/697AD] said as follows: When 'Umar Ibn al-Khattāb, may Allah be pleased with him, accorded a peace to the Christians of al-Shām, we wrote to him as follows:

In the name of Allah, the Merciful and Compassionate. This is a letter to the servant of Allah 'Umar (Ibn al-Khattāb), Commander of the Faithful, from the Christians of such-and-such a city. When you marched against us, we asked you for safe-conduct (*Amān*), for ourselves, our descendants, our property, and the people of our community, and we undertook the following obligations toward you:

We shall not build, in our cities or in their neighbourhood, new monasteries, churches, convents, or monks' cells, nor shall we repair, by day or by night, such of them as fall in ruins or are situated in the quarters of the Muslims.

We shall keep our gates wide open for passers-by and travellers. We shall give board and lodging to all Muslims who pass our way for three days.

We shall not give shelter in our churches or in our dwellings to any spy, nor bide him from the Muslims.

We shall not teach the Qur'ān to our children.

We shall not manifest our religion publicly nor convert anyone to it. We shall not prevent any of our kin from entering Islam if they wish it.

We shall show respect toward the Muslims, and we shall rise from our seats when they wish to sit.

We shall not seek to resemble the Muslims by imitating any of their garments, the *qalansūwa* (cap), the turban, footwear, or the parting of the hair. We shall not speak as they do, nor shall we adopt their *kunyas* (surnames).

We shall not mount on saddles, nor shall we gird swords nor bear any kind of arms nor carry them on our persons.

<sup>48</sup> The Andalusian Mālikī Jurists, Abū Bakr Muhammad Ibn al-Walīd b. Khalaf b. Sulaymān b. Ayyūb al-Turtūshī, who died in 520 AH /1126 AD.

We shall not engrave Arabic inscriptions on our seals.

We shall not sell fermented drinks.

We shall clip the fronts of our heads.

We shall always dress in the same way wherever we may be, and we shall bind the *zunār* (waist belt) round our waists

We shall not display our crosses or our books in the roads or markets of the Muslims. We shall use clappers in our churches only very softly. We shall not raise our voices when following our dead. We shall not show lights on any of the roads of the Muslims or in their markets. We shall not bury our dead near the Muslims.

We shall not take slaves who have been allotted to Muslims.

We shall not build houses overtopping the houses of the Muslims.

When I brought the letter to 'Umar, May Allah be pleased with him, he added, 'We shall not strike a Muslim.'

We accept these conditions for ourselves and for the people of our community, and in return we receive safe-conduct.

If we in any way violate these undertakings for which we ourselves stand surety, we forfeit our covenant (*Dhimma*), and we become liable to the penalties for contumacy and sedition.

'Umar Ibn al-Khattāb replied: Sign what they ask, but add two clauses and impose them in addition to those, which they have undertaken. They are: 'They shall not buy anyone made prisoner by the Muslims,' and 'Whoever strikes a Muslim with deliberate intent shall forfeit the protection of this pact.'<sup>49</sup>

<sup>49</sup> Ibn 'Asākir, *Tārīkh Madīnat Dimashq*, op. cit., Vol. 2, p. 178-179.

عبد الرحمن بن غنم الأشعري قال:

كتب لعمر بن الخطاب حين صالحوا نصارى الشام:

بسم الله الرحمن الرحيم.

هذا كتاب لعبد الله عمر أمير المؤمنين من نصارى بلد كذا وكذا.

إنكم لما قدمتم علينا سألناكم الأمان لأنفسنا وذرائنا وموالينا وأهل ملتنا وشرطنا على أنفسنا أن لا نحدث في مدينتنا ولا فيما حولها ديراً ولا كنيسة ولا

قلاية ولا صومعة راهب ولا نجدد ما حارب منها، ولا نجبيء ما كان من مخطط المسلمين، ولا نمنع كنائسنا من أن يترها أحد من المسلمين في ليل أو نهار،

وأن نوسع أبوابنا للمارة وابن السبيل، وأن نزل من مر بنا ثلاثة أيام من المسلمين نطعمهم، وأن نرشدهم، ولا نؤزي في كنائسنا ولا منازلنا جاسوساً، ولا

It is clear that the above document is based on six structural and characteristic elements. These are:

1. Christian places of worship such as churches, monasteries and monk's cells;
2. Hospitality to Muslim travellers, and serving them with food;
3. No harm to Muslims and Islam;
4. To be distinguished in the way they dress and not to imitate Muslims;
5. What they are prohibited from doing and saying.
6. Their commercial relations with Muslims such as partnership.

Since 'Umar's pact has been reported as a narration, there is a need to implement the rules of scholars of *Hadīth* in examining the authenticity and falseness of this document. In order to critically analyse the pact, three main issues must be examined:

1. Chain of transmitters of the pact (*Isnad*).
2. Examination of the text of the pact (*Matin*).
3. Validity of attributing the pact to 'Umar.

نعلم أولادنا القرآن، وأن لا نظهر شركاً، ولا ندعو إليه أحدٌ وأن لا نغنى أحدًا من ذوي قرابتنا الدخول في الإسلام، ولا تشبه بهم في شيء من لباسهم في قلنسوة ولا عمامة، ولا نعلين، ولا فرق شعر، ولا نكلم بكلامهم، ولا نكتفي بكناهم، ولا نركب السروج، ولا نقتلد السيوف، ولا نتخذ شيئاً من السلاح ولا نحمله معنا، ولا ننقش حواتمنا بالعربية، ولا نبيع الخمر وأن نجوز مقادير رؤوسنا، وأن نلزم زينا حيث ما كنا، وأن نشد الزناير على أوساطنا، وأن لا نظهر الصليب على كنائسنا، وأن لا نظهر صلبنا وكتبنا في شيء من طرق المسلمين ولا أسواقهم، وأن لا نضرب بنواقيسنا في كنائسنا إلا ضرباً خفياً، وأن لا نرفع أصواتنا بالقراءة في كنائسنا في شيء من حضرة المسلمين، وأن لا نخرج شعائنا ولا باعوثاً وأن لا نرفع أصواتنا مع موتانا، ولا نظهر التيران معهم في شيء من طرق المسلمين وأسواقهم، ولا نجاورهم بموتانا ولا نتخذ من الرقيق ما جرى عليه سهام المسلمين، ولا نطلع عليهم في منازلهم. قال عبد الرحمن فلما أتيت عمر بن الخطاب بهذا الكتاب زاد فيه: ولا نضرب أحدًا من المسلمين شرطنا ذلك لكم على أنفسنا وأهل ملتنا وقبلنا الأمان فإن نحن خالفنا عن شيء مما شرطنا لكم وضمننا على أنفسنا فلا ذمة لنا وقد حل لكم ما حل لأهل المعاندة والشقاق.

### 3.2.2.1 Jurist's opinions on the chain of narrators of the pact of 'Umar

Ibn 'Asākir was unique in that he reported five narrations of 'Umar's pact.<sup>50</sup> However, when examining these, four were found to contain some problems in their chains of narrators. The chain of narrators of the five versions is shown in table 1 below.

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<sup>50</sup> Ibid, pp. 174-181.



Version 1	Version 2	Version 3	Version 4	Version 5
Abū Muhammad Sahl Ibn Bisher al-Isfrānī	Abū al-Qasem al-Suhāmī	Abū Muhammad Taher Ibn Sahl	Abū Muhammad Taher Ibn Sahl	Abū al-Husayn al-Khatīb
Abū al-Hasan 'Abd al-Dā'm Ibn al-Husayn al-Qatān	Abū Bakr al-Baiḥaqī	'Abd al-Dā'm Ibn al-Husayn	'Abd al-Dā'm al-Qatān	Abū 'Abd Allah al-Khatīb
'Abd al-Wahāb Ibn al-Husayn al-Kulābī	Abū Muhammad 'Abd Allah al-Asbahānī	'Abd al-Wahāb al-Kulābī	'Abd al-Wahāb al-Kulābī	Abū al-Hasan 'Alī Ibn al-Hasan al-Raba'ī
<b>Abū Muhammad 'Abd Allah Ibn Ahmad Ibn Zubar</b>	Abū Tālib 'Alī Ibn 'Abd al-Rahmān Ibn Abī 'Aqīl	<b>Abū Muhammad Ibn Zubar</b>	<b>Abū Muhammad Ibn Zubar</b>	Abū al-Faraj al-'Abās Ibn Muhammad
Muhammad Ibn Ishāq In Rāhawīh al-Hanzalī	Abū al-Hasayn 'Alī Ibn al-Hasan al-khul'ī al-Shāfi'ī	Muhammad Ibn Hishām Ibn al-Bukhtarī	Muhammad Ibn Maīmūn al-Sūfi	'Abd Allah Ibn 'Atāb
Bishr Ibn al-Walīd	Abū Muhammad 'Abd al-Rahmān Ibn 'Umar Ib al-Nahās	Al-Rabī' Ibn Tha'lb al-Ghanwī	Isma'īl Ibn Mujāld Ibn Sa'id	Muhammad Ibn Muhammad Ibn Mus'ab
'Abd al-Hamīd Ibn Bihrām	Abū Sa'id Ahmad Ibn Muhammad al-A'rābī	Abū al-Qasem al-Suhāmī	Sufyān al-Thawrī	'Abd al-Wahāb Ibn Najda al-Hawtī
Shahr Ibn Hawshab	Muhammad Ibn Ishāq al-Sufār	Abū Bakr al-Ja'fī	Talha Ibn Musrf	Muhammad Ibn Himīr
'Abd al-Rahmān Ibn Ghanam	Al-Rabī' Ibn Tha'lb Abū al-Fadl	Abū Tāher al-Faqīh	Masrūq	'Abd al-Malik Ibn Hamīd
	<b>Yahyā Ibn 'Uqba Ibn Abī al-'Aizer</b>	Abū al-Hasan 'Alī Ibn Muhammad Ibn Sahnawīh	'Abd al-Rahmān Ibn Ghanam	Al-Sarī Ibn Mutrf
	Sufyān al-Thawrī	Abū Bakr Ya'qūb Ibn Yūsuf al-Mutaw'ī		Sufyān al-Thawrī
	Al-Walīd Ibn Nūh	Al-Rabī' Ibn Tha'lb		Al-Walīd Ibn Nūh
	Al-Sarī Ibn Mutrf	<b>Yahyā Ibn 'Uqba Ibn Abī al-'Aizer</b>		Talha Ibn Musrf
	Talha Ibn Musrf	Sufyān al-Thawrī		Masrūq Ibn al-Ajda'
	Masrūq	Al-Walīd Ibn Nūh		'Abd al-Rahmān Ibn Ghanam
	'Abd al-Rahmān Ibn Ghanam	Al-Sarī Ibn Mutrf		
		Talha Ibn Musrf		
		Masrūq		
		'Abd al-Rahmān Ibn Ghanam		

**Table 1:** The chains of narrators of Ibn 'Asākir's five versions. These are shown in order from the beginning to the end of the chain. The names shown in bold are the untrustworthy narrators.<sup>51</sup>

<sup>51</sup> Ibn 'Asākir, *Tārīkh Maḍīnat Dimashq*, op. cit., Vol. 2, pp.174-180.

According to Al-Khatīb Al-Baghdādī (died 463 AH /1071 AD)<sup>52</sup> and Al-Dhahabī (died 748 AH /1347 AD):<sup>53</sup> Abū-Muhammad 'Abdullah Ibn Ahmad Ibn Zubar (whose name appeared as one of the narrators in two of the Ibn 'Asākir versions) and Yahyā Ibn 'Uqba (whose name appeared as a narrator in the other two versions) are untrustworthy narrators, renowned as fabricating the *Hadīth*. Therefore, the researcher is inclined to believe that the said first four narrations are invalidated. This is because, for Muslim scholars, a narration is more likely to be guaranteed if the chains of narrators are all trustworthy. The fifth narration, according to 'Ajīn, seems to have a full chain of trustworthy narrators.<sup>54</sup> 'Ajīn discussed the different chain of narrators that Ibn 'Asākir has mentioned and came to the conclusion that Ibn 'Asākir's fifth narration is the most authentic version.<sup>55</sup>

Ibn Qayyim al-Jawziyya mentioned three versions and commented on the chains of their narrators, though he did not clearly show that he had conducted a thorough verification process.<sup>56</sup> In fact, although it seemed that he did have some doubts regarding the validity of the chains of narrators, he tried to avoid discussing this issue by ascertaining that the fame of narration rules out the need to investigate the chains

<sup>52</sup> Al-Khatīb al-Baghdādī, Abū Bakr Ahmed Ibn 'Alī, *Tārīkh Baghdād aw Madīnat al-Salām*, Studied and Edited by 'Atā M, Manshūrāt Muhammad 'Alī Baydūn. Dār al-Kutub al-'Ilmīya, (Beirut 1417 AH /1997 AD), 1<sup>ST</sup> Edition, Vol. 14, pp.117-118.

<sup>53</sup> Al-Dhahabī, Muhammad Ibn Ahmad, *Mīzān Al-I'tedāl Fi Naqd Al-Rejāl*, Edited by Mu'awad A. 'Abdulmawjūd A. Abū Sinnah A. Dār al-Kutub al-'Ilmīya (Beirut 1416 AH / 1995 AD), 1<sup>ST</sup> Edition, Vol. 4, p.59. See also Al-Dhahabī. Muhammad Ibn Ahmed *al-Mughnī fī al-Du'aqā'*, Edited by al-Qādī A, Manshūrāt Muhammad 'Alī Baydūn. Dār al-Kutub al-'Ilmīya, (Beirut 1418 AH /1997 AD), 1<sup>ST</sup> Edition, Vol. 2, p. 524.

<sup>54</sup> 'Ajīn, *al-Uhda al-Umarīya*, *op. cit.*, p. 78.

<sup>55</sup> *Ibid.*, p 79.

<sup>56</sup> Ibn al-Qayyim, *Ahkām Ahl al-Dhimma*, *op. cit.*, Vol. 2, pp. 113-5

of narrators.<sup>57</sup> That is to say, Ibn al-Qayyim dissented from his methodology in conducting a valid verification process, despite his knowledge that fame of narration in itself is no proof of authenticity, especially when concerned with an important subject such as the one on hand. Furthermore, the fame of this pact has occurred long time after the assumed date of issuing it. Nevertheless, Ibn al-Qayyim's texts of the pact were also subject to other problems as will be seen later.

'Ajīn argues that the chains of narrators of Ibn al-Qayyim's versions are weak. He agrees with Sa'īd when the latter classified Ibn al-Qayyim's versions as being very weak and containing unknown narrators.<sup>58</sup> As a result, Sa'īd refused to accept the pact of 'Umar as a document issued by the Caliph himself to the Christians.<sup>59</sup> 'Ajīn, however, seems to reject the claim that the pact is not issued by 'Umar.

To sum up, four of Ibn 'Asākir's versions are not authentic, because of containing untrustworthy narrators in their chain of narrators. Also, with regard to Ibn al-Qayyim, all his three versions were weak and contained unknown narrators in their chain of narrators. The fifth version of Ibn 'Asākir's will be examined now but in terms of discussing the text of the document. It seems that there is a need to study the text of this document to find out to what extent this pact can be attributed to 'Umar.

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<sup>57</sup> Ibid., p. 115.

<sup>58</sup> 'Ajīn, *al-'Uḥda al-'Umarīya*, *op. cit.*, p.79.

<sup>59</sup> Sa'īd, *al-Wad' al-Qānūnī*, *op. cit.*, p.157.

### 3.2.2.2 Examination of the text of Ibn 'Asākir's fifth version.

It should be borne in mind that this fifth version is the one that is similar to other versions documented by different scholars. Ibn 'Asākir's fifth version is narrated without specifying the name of the city, i.e. it refers 'to such and such a city' or one that is nameless. One might ask how such an important document could miss the name of the city it addresses? How could the Caliph 'Umar not even ask about the city's name after modifying the document? And why did the Christians of that city not insist on having the name of the city written down? 'Ajīn argues that this happened unintentionally by 'Abd al-Rahmān Ibn Ghanam who might have forgotten to state the name of the city, as he had to issue numerous pacts to different cities at that period of time.<sup>60</sup> But did this actually happen? It seems that this is not the case. Early sources failed to offer either confirmation or denial to this suggestion. In addition, 'Ajīn said in other places in his article that the pact was written after a long negotiation between Muslims and Christians.<sup>61</sup> Therefore, the researcher argues that, if this is the case, then the name of the city they were negotiating about should have appeared in the document they wrote. In addition, the researcher wonders why later scholars, for example, Ibn Qayyim, who wrote his book almost one hundred and fifty years after Ibn 'Asākir's, was confused regarding the name of the city. In the three versions he mentioned, the first version demonstrates that the people of *al-Jazīra*<sup>62</sup> wrote to 'Abd al-Rahmān Ibn Ghanam who then wrote to the Caliph 'Umar. The second version, however, shows that 'Abd Al-Rahmān wrote directly to the caliph

<sup>60</sup> 'Ajīn, *Al-'Uḥda al-'Umarīya. op. cit.*, p. 83.

<sup>61</sup> Ibid., p 83.

<sup>62</sup> Al-Jazīra, is the name of that stretch of territory which lies between the Tigris and the Euphrates. It is bounded on the west by Asia Minor and parts of Armenia, on the south by Syria, on the east by Iraq, and on the north by parts of Armenia.

when he concluded a peace treaty with the Christians of *al-Shām*. Finally, the third version stated that 'Abd al Rahmān told of the stipulations of the Christians of *al-Shām* themselves in a letter to Caliph 'Umar.<sup>63</sup> This shows the confusion Ibn Qayyim was in about the actual name of the city.

Tritton argues that, in a normal case, conquered people would not decide the terms on which they should be admitted into alliance with their victors. He criticizes the statement that conquered Christians forbid themselves all knowledge of the Qur'ān, and yet cite it in their letter to the caliph, i.e. *'until they pay the Jizyah with willing submission, and feel themselves subdued'*.<sup>64</sup> 'Ajīn argues that the reason for not allowing the Christians to teach their children the Qur'ān is due the fact that if they did they would not teach them the actual meanings and would fabricate the Qur'ānic verse.<sup>65</sup> The text of the pact contains some vocabularies uncommon to 'Umar's period. As an example, al-Sālih explains that the word *Zunār* is a Greek word meaning waist belt. This word was not well-known at the time in the Arab Peninsula.<sup>66</sup> Tritton finds it strange to believe that discriminatory laws found in the pact would have been thought of by the Christians themselves. He also addresses some inconsistencies among the different versions of the pact regarding the people with whom the treaty was concluded, the place it was signed, and whether the ruler issuing the pact was 'Umar or one of his commanders.<sup>67</sup>

<sup>63</sup> Ibn al-Qayyim, *Ahkām Ahl al-Dhimma*, op. cit., Vol. 2, pp. 113-5, see Ibn al-Qayyim, *Shareh al-shurūt*, op. cit., pp. 1-7.

<sup>64</sup> Qur'ān, *At-taubah*: 29

<sup>65</sup> 'Ajīn, *Al-'Uḥda al-'Umarīya*, op. cit., p. 84

<sup>66</sup> Ibn al-Qayyim, *Shareh al-Shurūt*, op. cit., from the Introduction.

<sup>67</sup> Tritton, *The caliphs*, op. cit., p. 6-15

Regarding the ruler issuing the pact; it is worth mentioning that Ibn 'Asākir reported the same text of the pact but in a another volume of his seventy-volume work, in the form of a letter from the Christians of *al-Shām* that was handed over to Abū-'Ubaīdah the chief commander in Syria (*al-Shām*) instead of to 'Abd al-Rahmān Ibn Ghanam'.<sup>68</sup>

'When thou camest into our land we asked of thee safety for our lives and the people of our religion, and we imposed these terms on ourselves; not to build in Damascus and its environs church, convent, chapel, monk's hermitage, not to repair what is dilapidated of our churches nor any of them that are in Muslim quarters; not to withhold our churches from Muslims stopping there by night or day...not to teach our children the Qur'ān; not to be partners with a Muslim except in business; to entertain every Muslim traveller in our customary style and feed him in it three days. We will not abuse a Muslim, and he who strikes a Muslim has forfeited his rights'.<sup>69</sup>

According to this narration, there is no mention at all of 'Abd al Rahmān, and a new name appeared, Abū Ubaydah. The researcher argues, how could Ibn 'Asākir use two different persons in the same document but with different narrations? This shows that Ibn 'Asākir himself was unsure about the authenticity of this narration.

### 3.2.2.3 Validity of attributing the pact to 'Umar

The majority of orientalist are against the attribution of this document to Caliph 'Umar. The researcher believes that the reason behind their attitude is not to defend 'Umar but because first, all the practical measures that took place against the people of *Dhimma* during the history by relying on this pact were void and had no basis, second, they want to assert the fact that Muslim jurisprudence and historical

<sup>68</sup> Ibn 'Asākir, *Tārīkh Madīnat Dimashq*, *op. cit.*, Vol. 2, pp.120.121.

<sup>69</sup> Ibn 'Asākir, *Tārīkh Madīnat Dimashq*, *op. cit.*, Vol. 2, pp. 120-121. The English translation of *Umar's* pact quoted from Tritton, *The caliphs*, *op. cit.*, pp. 6-8.

literatures are full of fabricated matters, and third, they wish to cast doubt on most narrations containing 'Umar's name.

A question that arises here is, could the pact of 'Umar have originated with 'Umar? 'Aġīn was not the first to argue in favour of the pact of 'Umar. He was preceded by Ibn Taymīyah who asserted that these were the conditions which 'Umar Ibn Al-Khattāb had actually made.<sup>70</sup> Ibn Taymīyah comments by saying that the terms, in the pact of 'Umar, are constantly renewed and imposed on Christians by some Muslim rulers such as 'Umar Ibn 'Abdul-'Azīz, who strictly followed the path of 'Umar Ibn al-Khattāb. Hārūn al-Rashīd, Ja'far al-Mutawakkil and others, according to Ibn Taymīyah, renewed the terms of 'Umar's pact and ordered the destruction of those churches which ought to be demolished, such as the churches in all Egyptian lands.<sup>71</sup> Ibn Taymīyah also declares that the chief scholars who belong to the well-known schools of jurisprudence mention these terms, and alludes to the fact that the Imām ought to constrain the People of the Book to subjugate them to these terms.<sup>72</sup> Ibn Taymīyah went further in his discussion when he claimed that this pact to be the most famous subject in the books of *fiqh* and Islamic literature and one that was generally accepted and agreed on by the great Muslim scholars, their companions, and the whole Muslim *Ummah* (nation)<sup>73</sup>.

<sup>70</sup> Ibn Taymīyah, *Majmū'a Fatāwa Shaikh al-Islām*, op. cit., Vol. 28, pp. 654.

<sup>71</sup> Ibid., pp. 654-655.

<sup>72</sup> Ibid., p. 654.

<sup>73</sup> Ibn Taymīyah, *Eqtidā' al-Serāt al Mūstaqīm*, op. cit., Vol. 1, pp. 226-227.

Ibn Kathīr commented on the Qur'ānic verse '*and feel themselves subdued (sāghirūn)*'<sup>74</sup> by saying that the term means disgraced, humiliated and belittled. Therefore, Muslims are not allowed to honour the people of *Dhimma* or elevate them above Muslims, as they are miserable, disgraced and humiliated. He added that this was why the leader of the faithful 'Umar Ibn al-Khattāb demanded his well-known conditions to be met by the Christians, referring to the pact of 'Umar.<sup>75</sup>

'Ajīn claims that this pact actually reflects the Islamic way of treating non-Muslims, derived from the Qur'ān and the *Sunnah*.<sup>76</sup> It seems that he was trying to defend the opinions of Ibn Taymīyah and Ibn al-Qayyim who represent the trend of inflexibility against non-Muslims. He quoted all Ibn Taymīyah's comments on the pact of 'Umar, and considered the Ibn Kathīr citation of the pact as validation of the attribution of the pact to 'Umar. On the other hand, it is worth mentioning that al-Albānī, a modern *Hadīth* Muslim scholar (one of the Ibn Taymīyah's school of thought followers), has doubted the chain of narrators of the pact of 'Umar.<sup>77</sup>

Caetani doubted that this pact belongs to the Caliph 'Umar, believing that the text of the pact have been written in later years after 'Umar's period.<sup>78</sup> Tritton, writing more

<sup>74</sup> Qur'ān, *At-taubah*: 29 'Fight those who believe not in Allah nor the Last Day, Nor hold that forbidden which hath been forbidden by Allah and His Messenger, nor acknowledge the Religion of Truth, from among the People of the Book, until they pay the *Jizyah* with willing submission, and feel themselves subdued. حَتَّى يُعْطُوا الْجِزْيَةَ عَنْ يَدٍ وَهُمْ صَاغِرُونَ.

<sup>75</sup> Ibn Kathīr, *Tafsīr al-Qūr'ān al-'Azīm*, *op. cit.*, Vol. 2, pp. 458.

<sup>76</sup> 'Ajīn, *Al-Uhda al-'Umarīya*, *op. cit.* p. 85.

<sup>77</sup> Al-Albānī, Muhammad Nāssir al-Dīn, *Irrwā' al-Ghalīl fī Takhrīj Ahādīth Manār al-Sabīl*, Under the Supervision of al-Shāwīsh M, al-Maktab al-Islāmī (Beirut 1405 AH/1985 AD), 2<sup>ND</sup> Edition, Vol. 5, pp.103-104

<sup>78</sup> Caetani, *Annali Dell Islam*, *op. cit.*, Vol. 3. pp. 957-959



than seventy years ago, also doubted the attribution to 'Umar.<sup>79</sup> Tritton pointed out that the pact 'presupposes closer intercourse between Christians and Muslims than was possible in the early days of conquest'.<sup>80</sup> He adds that by searching the historical sources, references to the pact only became common at the beginning of the ninth century. He further supports his argument by referring to the sample statement, to be issued to Christians whenever the leader needed to conclude a peace treaty with them, preserved in al-Shāfi'ī's famous book (*Kitāb al-Umm*), cited below:

'If a Muslim leader wants to conclude a peace treaty with Christians in return for their paying *Jizyah*, he should start it with in the name of Allah, the most compassionate, the most merciful. This is a pact written by so and so the servant of Allah, the commander of the faithful in year so and so to the Christians so and so who live in the city so, and the Christians of the city so, I, and all Muslims, promise you and your fellow Christians security as long as you and they keep the conditions we impose upon you. Which are: you shall be under Muslim laws and no other, and shall not refuse to do anything we demand of you. If any of you says of the Prophet, of Allah's book or His religion what is unfitting, he is debarred from the protection of Allah, the commander of the faithful, and all Muslims; the conditions on which security was given are annulled; and the Commander of the Faithful has put his property and life outside the pale of the law, like the property and lives of enemies. If one of you commits fornication with or marries a Muslim woman, or robs a Muslim on the highway, or turns a Muslim from his religion, or helps their enemies as a soldier or guide to Muslim weakness, or shelters their spies, he has broken his agreement, and his life and property are without law. He who does less harm than this to the goods or honour of a Muslim shall be punished. We shall scrutinize your dealing with Muslims, and if you have done anything unlawful to a Muslim we shall undo it and punish you; e.g. if you have sold to a Muslim any forbidden thing, as wine, pigs, blood, or an (unclean) carcass, we shall annul the sale, take the price from you (if you have received it) or withhold it from you (if it has not been paid); we shall pour out the wine or blood and burn the carcass. If he (the Muslim) wishes it to be destroyed we shall do nothing to him, but we shall punish you. You shall not give him any forbidden thing to eat or drink, and shall not give him a wife in the presence of your witness nor in an illegal marriage. We shall not scrutinize nor enquire into a contract between you and any other unbeliever. If either party wishes to annul the contract, and brings

<sup>79</sup> Tritton, *The Caliphs*, op. cit., p. 10.

<sup>80</sup> Ibid., pp. 8-10

a request to us, if we think that it should be annulled we shall annul it, if it is legal we shall allow it. But if the object has been taken and lost we shall not restore it, for a sale between unbelievers has been finished. If you or any other unbeliever asks for judgment we shall give it according to Muslim law; if we are not approached we shall not interfere between you. If you kill accidentally a Muslim or an ally, Christians or not, then the relatives (of the homicide) shall pay blood money, as among Muslims. For you, relatives are on the father's side. If a homicide has no relatives then his estate must pay. A murderer shall be killed unless the heirs wish to take blood money, which shall be paid at once. A thief, if his victim complains, shall pay a fine. The slanderer shall be punished if the punishment is fixed; if not, he shall be punished according to Muslim law. You shall not display in any Muslim town the cross nor parade your idolatry, nor build a church nor place of assembly for your prayers, nor beat the nakus, nor use your idolatrous language about Jesus, the son of Mary, to any Muslim. You shall wear the zunnar above all your clothes, cloaks and others, so that it is not hidden; you shall use peculiar saddles and manner of riding, and make your *kalansūwas* different from those of the Muslims by a mark you put on them. You shall not take the crest of the road nor the chief seats in assemblies, when Muslims are present. Every free adult male of sound mind shall pay poll tax, one *dinār* of full weight, at New Year. He shall not leave his town till he has paid and shall not appoint a substitute to pay it, the *Jizyah* amount to be paid at the end of the year; poverty does not cancel any of your obligations nor abrogate the protection given you. If you have anything we shall take it. The *Jizyah* is the only burden on your property as long as you stay in your town or travel in Muslim land, except as merchants. You may not enter Mecca under any conditions. If you travel with merchandise you must pay one-tenth to the Muslims, you may go where you like in Muslim land, except Mecca, and may stay in any Muslim land you like except the *Hijāz*, where you may stay three days only till you depart.

These terms are binding on him who has hair under his clothes, is adult, or has completed fifteen years before this date, if he agrees to them; if not, there is no treaty with him. Your little boys, immature lads, lunatics, and slaves do not pay *Jizyah*. If a lunatic becomes sane, a boy grows up, a slave is set free and follows your religion, he pays *Jizyah*. The terms are binding on you and those who accept them; we have no treaty with those who refuse them. We will protect you and your lawful (according to our law) property against any one, Muslim or not, who tries to wrong you, as we protect our own property; our decisions about it will be the same as those about our own property, and ourselves. Our protection does not extend to forbidden things, like blood, carcasses, wine and pigs, but we will not interfere with them; only you must not obtrude them on Muslims towns. If a Muslim or other buys them we will not force him to pay, for they are forbidden and have no price; but we will not let him annoy you about them, and will not force him to pay. You must fulfil all the conditions we imposed on you. You must not attack a Muslim nor help their enemies by word or deed. This is the treaty of Allah and His promises and the most complete fulfilment of promise He has imposed on any His creatures; you have the treaty of Allah and His promise and the

protection of N.N. the Commander of the Faithful, and of the Muslims to fulfil their obligations towards you. Your sons, when they grow up, have the same obligations as you. If you alter or change them then the protection of Allah, of N.N. the Commander of the Faithful, and of the Muslims is taken from you. He, who is at a distance, yet receives this document and approves it, these are the terms that are binding on him and on us, if he approves them; if he does not approve, we have no treaty with him.<sup>81</sup>

<sup>81</sup> Al-Shāfi'ī, *Kitāb al-Umm*, op. cit., Vol. 4, pp. 280-285, The English translation of this

document is quoted, with some modifications, from Tritton, *The Caliphs*, op. cit., pp. 12-16.

إذا أراد الإمام أن يكتب كتاب صلح على الجزية كتب : بسم الله الرحمن الرحيم هذا كتاب كتبه عبد الله فلان أمير المؤمنين سنة كذا وكذا لفلان بن فلان النصراني من بني فلان الساكن بلد كذا وأهل النصرانية من أهل بلد كذا إنك سألتني أن أؤمّنك وأهل النصرانية من أهل بلد كذا وأعقد لك ولهم ما يعقد لأهل الذمة على ما أعطيتني وشرطت لك ولهم وعليك وعليهم فأجبتك إلى أن عقدت لك ولهم علي وعلى جميع المسلمين الأمان ما استقيمت واستقاموا بجميع ما أخذنا عليكم وذلك أن يجري عليكم حكم الإسلام لا حكم خلافه بحال يلزمكموه ، ولا يكون لكم أن تمتنعوا منه في شيء رأيناه نلزمكم به وعلى أن أحدا منكم إن ذكر محمدا صلى الله عليه وسلم أو كتاب الله عز وجل أو دينه بما لا ينبغي أن يذكره به ، فقد برئت منه ذمة الله ثم ذمة أمير المؤمنين وجميع المسلمين ونقض ما أعطي عليه الأمان وحل لأمر المؤمنين ماله ودمه كما تحل أموال أهل الحرب دماؤهم . وعلى أن أحدا من رجالكم إن أصاب مسلمة بزنا ، أو اسم نكاح أو قطع الطريق على مسلم ، أو فتن مسلما عن دينه ، أو أعان المحاربين على المسلمين بقتال ، أو دلالة على عورة المسلمين وإيواء لعيونهم ، فقد نقض عهده وأحل دمه وماله ، وإن نال مسلما بما دون هذا في ماله أو عرضه ، أو نال به من على مسلم منعه من كافر له عهد ، أو أمان لزمه فيه الحكم وعلى أن نتبع أفعالكم في كل ما جرى بينكم وبين مسلم فما كان لا يحل لمسلم مما لكم فيه فعل رددناه وعاقبناكم عليه وذلك أن تتبعوا مسلما بيعا حراما عندنا من خمر ، أو خنزير ، أو دم ميتة أو غيره ونبتل البيع بينكم فيه ونأخذ ثمنه منكم إن أعطاكموه ، ولا نرده عليكم إن كان قائما ونهريقه إن كان خمر ، أو دما ونحرقه إن كان ميتة ، وإن استهلكه لم نجعل عليه فيه شيئا ونعاقبكم عليه ، وعلى أن لا تسقوه ، أو تطعموه محرما أو تزوجه بشهود منكم ، أو بنكاح فاسد عندنا وما بايعتم به كافرا منكم ، أو من غيركم لم نتبعكم فيه ، ولم نسالكم عنه ما تراضيتم به . وإذا أراد البائع منكم ، أو المبتاع نقض البيع وأتانا طالبا له فإن كان منتقضا عندنا نقضناه ، وإن كان جائزا أجزأه إلا أنه إذا قبض المبيع وفات لم يردده ؛ لأنه بيع بين مشركين مضى ومن جاعنا منكم ، أو من غيركم من أهل الكفر يحاكمكم أجربناكم على حكم الإسلام ومن لم يأتنا لم نعرض لكم فيما بينكم وبينه ، وإذا قتلتم مسلما ، أو معاهدا منكم ، أو من غيركم خطأ فالدية على عواقلكم كما تكون على عواقل المسلمين وعواقلكم قراياتكم من قبل آبائكم ، وإن قتلتم منكم رجلا لا قرابة له فالدية عليه في ماله ، وإذا قتله عمدا فعليه القصاص إلا أن تشاء ورثته دية فيأخذونها حالة ، ومن سرق منكم فرفعه المسروق إلى الحاكم قطعه إذا سرق ما يجب فيه القطع وغرم ، ومن قذف فكان للمقذوف حد حد له ، وإن لم يكن حد عزز حتى تكون أحكام الإسلام جارية عليكم بهذه المعاني فيما سمينا ، ولم نسّم . وعلى أن ليس لكم أن تظهروا في شيء من أمصار المسلمين الصليب ، ولا تعلنوا بالشرك ، ولا تبنيوا كنيسة ، ولا موضع مجتمع لصلاتكم ، ولا تضربوا بانقوس ، ولا تظهروا قولكم بالشرك في عيسى ابن مريم ، ولا في غيره لأحد من المسلمين ، وتلبسوا الزنانير من فوق جميع الثياب الأردية وغيرها حتى لا تخفى الزنانير وتخالقوا بسروجكم وركوبكم وتباينوا بين قلائسكم وقلائسهم بعلم تجعلونه بقلانسكم وأن لا تأخذوا على المسلمين سروات الطرق ، ولا المجالس في الأسواق وأن يؤدي كل بالغ من أحرار رجالكم غير مغلوب على عقله جزية رأسه دينارا متقالا جيدا في رأس كل سنة لا يكون له أن يغيب عن بلده حتى يؤديه ، أو يقيم به من يؤديه عنه لا شيء عليه من جزية رقبته إلى رأس السنة ومن افتقر منكم فجزيته عليه حتى تؤدي عنه وليس الفقر بدافع عنكم شيئا ، ولا ناقض لذمتكم عن ما به فمتى وجدنا عندكم شيئا أخذتم به ، ولا شيء عليكم في أموالكم سوى جزيتكم ما أقمتكم في بلادكم واختلقتهم ببلاد المسلمين غير تجار وليس لكم دخول مكة بحال ، وإن اختلقتهم بتجارة على أن تؤديوا من جميع تجاراتكم العشر إلى المسلمين فلهم دخول جميع بلاد المسلمين إلا مكة والمقام بجميع بلاد المسلمين كما شئتم إلا الحجاز فليس لكم المقام ببلد منها إلا ثلاث ليال حتى تظعنوا منه ، وعلى أن من أنبت الشعر تحت ثيابه ، أو احتلم ، أو استكمل خمس عشرة سنة قبل ذلك فهذه الشروط لازمة له إن رضيها فإن لم يرضها فلا عقد له ، ولا جزية على أبنائكم الصغار ، ولا صبي غير بالغ ومغلوب على عقله ، ولا مملوك ، فإذا أفاق المغلوب على عقله وبلغ الصبي وعق المملوك منكم فدان دينكم فعليه جزيتكم والشرط عليكم وعلى من رضيه ومن سخطه منكم نبذنا إليه ولكم أن تمنعكم وما يحل ملكه عندنا لكم ممن أرادكم من مسلم ، أو غيره بظلم بما نمنع به أنفسنا وأموالنا ونحكم لكم فيه على من

With al-Shāfi'ī's statement in mind, Tritton established his argument that the pact of 'Umar originated as 'an exercise in the schools of law to draw up pattern treaties'.<sup>82</sup>

He concludes that no one knew about the pact of 'Umar, although it is well known that any documents carrying 'Umar's name carried much fame.

It seems that this conclusion from Tritton is surely misleading. There is no doubt that there are a lot of similarities between the pact of 'Umar and the al-Shāfi'ī version, but does this mean that what Tritton has claimed is correct? If the pact of 'Umar is an

جرى حكمنا عليه بما نحكم به في أموالنا وما يلزم المحكوم في أنفسكم فليس علينا أن نمنع لكم شيئا ملكتموه محرما من دم ، ولا ميتة ، ولا خمر ، ولا خنزير كما نمنع ما يحل ملكه ، ولا نعرض لكم فيه إلا أنا لا ندعكم تظهرونه في أمصار المسلمين فما ناله منه مسلم ، أو غيره لم نغرمه ثمنه ؛ لأنه محرم ، ولا ثمن لمحرر ونزجره عن العرض لكم فيه فإن عاد أدب بغير غرامة في شيء منه . وعليكم الوفاء بجميع ما أخذنا عليكم وأن لا تغشوا مسلما ، ولا تظاهروا عدوهم عليهم بقول ، ولا فعل عهد الله وميثاقه وأعظم ما أخذ الله على أحد من خلقه من الوفاء بالميثاق ولكم عهد الله وميثاقه وذمة فلان أمير المؤمنين وذمة المسلمين بالوفاء لكم ، وعلى من بلغ من أبنائكم ما عليكم بما أعطيناكم ما وفيتم بجميع ما شرطنا عليكم فإن غيرتم أو بدلتم فذمة الله ثم ذمة فلان أمير المؤمنين والمسلمين برينة منكم ومن غاب عن كتابنا ممن أعطيناه ما فيه فرضيه إذا بلغه فهذه الشروط لازمة له ولنا فيه ومن لم يرض نبذنا إليه . شهد

( قال الشافعي ) رحمه الله تعالى فإن شرط عليهم ضيافة ، فإذا فرغ من ذكر الجزية كتب في أثر قوله : ولا شيء عليكم في أموالكم غير الدينار في السنة والضيافة على ما سميها فكل من مر به مسلم ، أو جماعة من المسلمين فعليه أن ينزله في فضل منزله فيما يمكنه من حر ، أو برد ليلة ويوما ، أو ثلاثا إن شرطوا ثلاثا ويطعمه من نفقة عامة أهله مثل الخبز والخل والجبن واللبن والحيتان واللحم والبقول المطبوخة ويعطيه دابة واحدة تبنا ، أو ما يقوم مقامه في مكانه فإن أقام أكثر من ذلك فليس عليه ضيافة ، ولا علف دابة وعلى الوسط أن ينزل كل من مر به رجلين وثلاثة لا يزيد عليهم ويصنع لهم ما وصفت وعلى الموسع أن ينزل كل من مر به ما بين ثلاثة إلى ستة لا يزيدون على ذلك ، ولا يصنعون بدوابهم إلا ما وصفت إلا أن يتطوعوا لهم بأكثر من ذلك فإن قلت المارة من المسلمين يفرقهم وعدلوا في تفريقهم . فإن كثر الجيش حتى لا يحتملهم منازل أهل الغنى ، ولا يجدون منزلا أنزلهم أهل الحاجة في فضل منازلهم وليست عليهم ضيافة فإن لم يجدوا فضلا من منازل أهل الحاجة لم يكن لهم أن يخرجوهم وينزلوا منازلهم وإذا كثروا وقل من يضيفهم فأيهم سبق إلى النزول فهو أحق به ، وإن جاعوا معا أقرعوا فإن لم يفعلوا وغلب بعضهم بعضا ضيف الغالب ، ولا ضيافة على أحد أكثر مما وصفت ، فإذا نزلوا يقوم آخريين من أهل الذمة أحببت أن يدع الذين قرأوا القرى ويقرى الذين لم يقرؤا ، فإذا ضاق عليهم الأمر فإن لم يقرهم أهل الذمة لم يأخذ منهم ثمن للقرى ، فإذا مضى القرى لم يؤخذوا به إذا سألهم المسلمون ، ولا يأخذ المسلمون من ثمار أهل الذمة ، ولا أموالهم شيئا بغير إذنهم ، وإذا لم يشترطوا عليهم ضيافة فلا ضيافة عليهم وأيهم قال أو فعل شيئا مما وصفته نقضا للعهد وأسلم لم يقتل إذا كان ذلك قولا ، وكذلك إذا كان فعلا لم يقتل إلا أن يكون في دين المسلمين إن فعله قتل حدا أو قصاصا فيقتل بحد ، أو قصاص لا نقض عهد ، وإن فعل ما وصفنا وشرط أنه نقض لعهد الذمة فلم يسلم ، ولكنه قال : أتوب وأعطي الجزية كما كنت أعطيها ، أو على صلح أجدده عوقب ، ولم يقتل إلا أن يكون فعل فعلا يوجب القصاص بقتل ، أو قود فأما ما دون هذا من الفعل ، أو القول وكل قول فيعاقب عليه ، ولا يقتل . ( قال الشافعي ) رحمه الله فإن فعل ، أو قال ما وصفنا وشرط أنه يحل دمه فظفرنا به فامتنع من أن يقول أسلم ، أو أعطى جزية قتل وأخذ ماله فينا .

<sup>82</sup> Tritton, *The Caliphs*, op. cit., p. 12.

exercise in the schools of law, then the jurists would have adopted it, but this was not the case. Imam al-Shāfi'ī mentioned in the same book (*al-Umm*) a statement that is totally different from the above version with regard to the way Muslims should treat Christians in relation to religious matters. This runs as follows:

'The government must not interfere with any practice of the *Dhimmīs*, although contrary to Muslim law as long as it is not done in public notice. So, in a town where there are no Muslims living, Christians may build churches and tall houses, and no one may interfere with their pigs and festivals. A *Dhimmī* may lend money at interest to another or contract a marriage not recognized by Muslim law, and no one can interfere...'<sup>83</sup>

Looking at the Islamic literature, none of the early historians, such as Al-Balādhurī, Al-Wāqidī, Al-Ya'qūbī, Al-Tabarī, Al-Azdī, Ibn A'them and Ibn Al-Athīr, and many others, have mentioned anything regarding the pact of 'Umar in their well-known books. Even though they have reported and discussed the conquest of al-Shām and other places. For example, Ibn Al-Athīr (a late historian, compared with the rest) discussed in his book *Al-Kāmil fī al-Tārīkh* the peace treaty concluded by Abū 'Ubaydah with the Christians of *Hims* in return for their paying *Jizyah*. He also addresses *Halab* (Aleppo) and how Muslims concluded a peace treaty with them. He mentions nothing regarding 'Umar's pact.<sup>84</sup>

Contemporary scholars writing about the subject of Muslim treatment of non-Muslim have neither mentioned the pact of 'Umar nor have they paid any attention to it. For example, Hamīduallah, in his book *Majmū'at al-Wathā'q al-Siyāsiyya Lil'ahd al-Nabawī wa al-Khilāfa al-Rāshida*, states in great detail a huge number of political documents pertaining to treaties, official letters and others issued by the Prophet and

<sup>83</sup> Al-Shāfi'ī, *Kītāb al-Umm*, *op. cit.*, Vol.4, p. 293.

<sup>84</sup> Ibn Al-Athīr, *al-Kāmil op. cit.*, Vol. 2, p.492.

his successors. However, with regard to the issue of 'Umar's pact, and despite its importance, he only briefly mentions it at the end of his book, more precisely in the final two pages. He quotes the text from the *Tafsīr of Ibn Kathīr* commenting on Ibn Kathīr's text by saying that it is without *Isnād* or reference.<sup>85</sup>

Since Hamīduallah paid great attention to the peace treaties that were concluded during 'Umar's reign, it appears that he was not convinced this pact can be attributed to 'Umar; otherwise he would have included in his book this pact with the other treaties and pacts which he collected from 'Umar's era. In fact, Hamīduallah himself emphasised his doubts by putting question marks after some sentences he quoted from the text. An example of these sentences is shown as follows:

We will not teach our children the Qur'ān?  
We will not speak their language?  
.....And that which has been reported by the scholars?<sup>86</sup>

Zaydān, in his famous book, *Ahkām al-Dhimmīyn wa al-Musta'minīn fī Dār al-Islam*, discussed in great details the situation of the non-Muslims in the Islamic State. He totally ignored discussing the pact of 'Umar, which seems to be clear evidence that he came to the conclusion that this pact does not belong to 'Umar –especially as he provided many examples that illustrating the good attitude of 'Umar toward the non-Muslims; these examples clearly contradict the terms in the so-called pact of 'Umar.<sup>87</sup> The researcher is inclined to believe that 'Umar issued a peace treaty to the conquered people, the normal action when Muslims conquered any land. This is clearly shown in the Muslim history literature. However, 'Umar did not issue the

<sup>85</sup> Hamīduallah, Muhammad, *Majmū'at al-Wathā'q al-Siyāsiyya Lil'ahd al-Nabawī wa al-Khilāfa al-Rāshida Dār al-Nafa's*, (Beirut 1407 AH/ 1987 AD), 2<sup>ND</sup> Edition, pp. 756-757.

<sup>86</sup> Ibid., p. 757.

<sup>87</sup> Zaydān, *Ahkām al-Dhimmīyn*, *op. cit.*, pp. 6-640.

document dealt with. The researcher argues that the text of the so-called pact of 'Umar was developed by unknown people through Muslim history to include conditions that have no relevance or link to the period of the early Muslim conquests. These conditions can be linked to situations of the people of *Dhimma*, starting with the time of 'Umar Ibn 'Abdūl 'Azīz, Hārūn al Rashīd through to the decrees of al-Mutawakkil<sup>88</sup>

The researcher believes that the bad socio-political and economic situation, a result of the conflict between the Abbasid and the Tolonīs in Egypt, which was prevalent especially at the time of the Abbasid Caliphate, in addition to the position of the *Dhimmīs* in the state who gained very high posts, contributed to the emergence of the so-called pact of 'Umar. Not only that, but the *Dhimmīs* were controlling large economic and political sections in the State.<sup>89</sup> All of the above factors created the chance for the so-called pact of 'Umar to exist as a real document given by 'Umar. It seems that the aim of this document was to put an end to the enormous power of *Dhimmīs*.

In his attempts to determine the factors that contributed to the existence of the pact of 'Umar, Sāfi explained that *Sharī'ah* rules underwent drastic revision, beginning with the eighth century of Islam. This was a time of great political turmoil throughout the Muslim world. It was during that time that the Mongols invaded Central and West

<sup>88</sup> Al-Mutawakkil (died 232 AH/786 AD) decreed that Christians and Jews should wear yellow garments, not white ones, that when riding they should use wooden stirrups, that their churches should be destroyed, that the *Jizyah* should be doubled, that they should neither live in a Muslim quarter nor enter into Muslim employ. See Sell, E, *Essays on Islam*, S.P.C.K. Press, (Madras 1901 AD) p.187.

<sup>89</sup> Tritton, *The Caliphs*, *op. cit.*, pp. 22-25.

Asia, inflicting tremendous losses on various dynasties and kingdoms, and destroying the seat of the caliphate in Baghdād. This coincided with the crusaders' control of Palestine and the coast of Syria. In the west, the Muslim power in Spain was being gradually eroded. Sāfi reached the conclusion that it was under such conditions of mistrust and suspicion that a set of provisions attributed to an agreement between Caliph 'Umar and the Syrian Christians appeared in the form of treaties written by Ibn al-Qayyim. That is why, Sāfi adds, the origin of these provisions is questionable, though their intent is clearly to humiliate Christian *Dhimmīs* and to set them apart in dress code and appearance.<sup>90</sup>

#### 3.2.2.4 'Umar's practice towards the *Dhimmīs*

A large number of incidents have been reported in the Muslim juristic and historical literature, which illustrate the good conduct that 'Umar was adopting towards the *Dhimmīs*. A number of examples are shown below.

It is well known that the 'Umar used to advise and instruct his army commanders to deal justly with the non-Muslims. As an example, it has been reported that 'Umar (after he was stabbed by a *Dhimmī*) instructed his would-be successor: 'I commend to the Caliph after me that he conduct good treatment to those who are under the Prophet's protection. He should keep the covenant with them, fight those who are

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<sup>90</sup> Sāfi, L. *Human Rights and Islamic Legal Reform*.

<http://home.att.net/louaysafi/articles/1999/human31/html>. Seen at 04.04.2002.



after them, and do not tax them beyond their capacity.<sup>91</sup> This illustrates 'Umar's anxiety for the well-being of the *Dhimmīs* while he was on his deathbed.

The Caliph 'Umar further fortified his good treatment to the *Dhimmīs* by his interpretation of the Qur'ānic verse '*Alms are for the poor and the needy...*'<sup>92</sup> According to 'Umar, the poor (*al-Fuqarā'*) were the Muslims and the needy (*al-Masākīn*) the *Dhimmīs* including Christians and Jews. 'Umar's interpretation came after the following incident that has been reported by Abū Yūsuf:

'Umar passed by the door of people at which there was a beggar who was an old blind man. 'Umar struck his arm from behind and asked, to which People of the Book do you belong? He said, I am a Jew. 'Umar said: what has compelled you to begging? The Jewish man replied, I am begging in order to get money to pay for *Jizyah* and my need, as I am old. Then 'Umar held his hand, and took him to his house and gave him something and some money. 'Umar then sent him to the Muslim treasurer (*Bait al-Māl*) 'Umar instructed the treasurer to take care of this man and whoever was like him. 'Umar added that with this man we have not done justice to him as we took *Jizyah* from him when he was young but we forsook him when he was old. Verily, the *Sadaqa* is for the poor and destitute. And this one is a destitute from the People of the Book. So 'Umar exempted taking the *Jizyah* from him'.<sup>93</sup>

And finally, 'Umar combined his speech with deeds when he sanctioned blood-retaliation (*Qisās*) in favour of an Egyptian Coptic man, against Muhammad the son of 'Amr Ibn al-'Ās the ruler of Egypt. 'Umar uttered his well-known historic words to 'Amr: 'O, 'Amr, how could you have enslaved the people, when their mothers

<sup>91</sup> Al-Bukhārī, *Sahīh Al-Būkhārī*, op. cit., Vol. 2, part 4, p 6, Ibn Ādam, *Kitāb al-Kharāj*, op. cit., p. 75, Abū Yūsuf, *Kitāb ul-Kharāj*, op. cit., pp. 13-14, Al-Tabarī, *Tārīkh al-Umam* op. cit., Vol. 2, p. 560, Ibn Hajar, Ahmad Ibn 'Alī, *Fath al-Bārī Sharh Sahīh al-Bukhārī*, Dār al-Salam and Dār al-Faīhā', (Riyadh – Damascus 1418 AH 1997 AD), 1 Edition, Vol. 6, p. 322, Hadīth no: 3126.

<sup>92</sup> Qur'ān, *al-Taūba*, 9:60.

<sup>93</sup> Abū Yūsuf, *Kitāb ul-Kharāj*, op. cit., p.126, Abū Yūsuf, *Islamic Revenue Code*, op. cit., p. 254.

have born them free'.<sup>94</sup> This story started when the son of 'Amr hit the Coptic man, saying: 'I am the son of the honoured people'. When the Coptic reported that to 'Umar, the latter did not hesitate to recall 'Amr and his son from Egypt, and told the Coptic man to hit 'Amr's son back.<sup>95</sup>

The researcher is inclined to believe that the humiliating conditions enumerated in the so-called pact of 'Umar are absolutely foreign to the mentality, thoughts and practice of 'Umar. The chain of narrators contains untrustworthy narrators. The main defects in the text are: it contains a nameless city; it uses unfamiliar vocabulary to those prevailing at the time of 'Umar such as *zunnar*; prohibition from teaching the Qur'ān; and with whom the treaty was concluded. These defects assert the claim that 'Umar is not the originator of this document. Quite the opposite; 'Umar's attitude towards the *Dhimmīs* illustrates utmost care, which entails the rejection of the so-called pact of 'Umar being attributed to Caliph 'Umar Ibn al-Khattāb altogether.

### 3.3 Conclusion

The researcher found that the conditions that have been issued to Banū Taghlib were not the work of 'Umar. What 'Umar did was he only applied the conditions that Prophet Muhammad gave to them. The researcher found that Prophet Muhammad was in fact the first issuer of the conditions, which were not applicable to all the members of Banū Taghlib. It was also found that the Muslim members among Banū Taghlib tribe were the people who requested the conditions.

<sup>94</sup> Ibn al-Jawzī, Abū al-Faraj 'Abd al-Rahmān Ibn 'Alī, *Sīrat wa Manāqib Amīr al-Mu'minīn 'Umar Ibn al-Khattāb*, Edited by 'Āmr M, Dār al-Da'wah al-Islāmīyah, (Cairo 1421 AH/ 2001 AD), 1<sup>ST</sup> Edition, p. 89, (Hereinafter cited as: Ibn al-Jawzī, *Sīrat wa Manāqib*)

<sup>95</sup> Ibid., p. 89.

Regarding the so-called pact of 'Umar, the researcher came to the conclusion that this was not the work of 'Umar. In addition to what has been discussed above the researcher agrees that 'Umar issued several pacts and treaties; none of them were in the same style as the document mentioned, nor contained the similar conditions.

## Chapter Four

### Muslim treatment of the Christians in light of the first Islamic conquest of Aelia (Islamic Jerusalem)

#### 4.1 Introduction

It is known that wars and battles usually bring destruction and bloodshed to both parties participating. However, the case was totally different in the conquest of Aelia (Islamic Jerusalem). This section will be devoted to answering the main question: what was the Muslim treatment of the Christians like after the early Islamic conquest of Aelia? The basis of the treatment was laid down from the moment when both sides, represented by Caliph ‘Umar Ibn al-Khattāb and the patriarch Sophronious, agreed to hand over the keys of the city peacefully to the Caliph; in return, the Caliph issued his assurance of safety to the Christians of Aelia (Islamic Jerusalem), in the form of what is known in history as *al-‘Uhda al-‘Umarīya* (‘Umar’s assurance of safety to the people of Aelia).

This chapter deals with Aelia (Islamic Jerusalem) in particular by discussing Umar’s assurance of safety to the Christians of Aelia, and the Muslim treatment of the Christians in light of this assurance. In addition, the case of the pact of ‘Umar (*al-Shurūt al-‘Umarīya*) on the Christians of Aelia will be discussed

It is important to go back to the pre-conquest period briefly to investigate the circumstances in which the Muslims were able to conquest Aelia (Islamic Jerusalem), and how the Muslims were prepared to do this. The focus will then be on studying 'Umar's assurance. A comparative study will be done of the most available versions of this famous document. Finally, will be discussed how this assurance played a major role in illustrating the Muslim way of treatment of the Christians and in creating a clear atmosphere for future relations between the followers of Christianity and Islam in Islamic Jerusalem.

#### **4.2 The Status of Christians in Aelia (Islamic Jerusalem) prior to the first Islamic conquest**

In order to understand the status of the Christians on the eve of the first Islamic conquest, it is necessary to have a brief discussion on the origin and religious situation of the inhabitants of Aelia at that time.

Before the first Islamic conquest of Aelia, the Arabs who had emigrated from the Arab peninsula and Yemen inhabited *al-Shām* including Jerusalem and were established especially on the two sides of the River Jordan (Palestine and Jordan). The Arabs formed the majority of the population.<sup>1</sup> Moreover, Arab tribes had lived in Palestine before and after 2000 B.C.<sup>2</sup> With regard to the Arab

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<sup>1</sup> Donner, Fred McGraw, *The Early Islamic Conquest*, Princeton University Press, (New Jersey 1981 AD), p. 95.

<sup>2</sup> Asaf, M, *The History of the Arab Rule in Palestine*, Davar Press, (Tel-Aviv, Palestine 1935 AD), cited in 'Athāminah, Khalīl, *Filastīn fī Khamsat Qurūn: Min al-Fath al-Islāmī Hattā al-Ghazw al-Faranjī (634-1099)-(Palestine in Five Centuries From the Islamic Conquest to the Frankish*

tribes living there, Shahīd points out that the Judhām, ‘Āmilah and Lakhm tribes had constituted the majority of the population of Arabs in Palestine before and after the Islamic conquest.<sup>3</sup> It is worth mentioning that ‘Athāminah has examined the Arab tribes in *al-Shām* and illustrated their geographical locations.<sup>4</sup>

Aelia was under the rule of the Romans from 63 B.C. until the Islamic conquest. Though, during this period, Aelia fell under the rule of the Persians for a period of less than 20 years. Most of the Arabs of Aelia had converted to Christianity following the efforts of Emperor Constantine, who had professed Christianity in 312 AD. He fostered Christianity throughout the empire, which led to its being made the official religion of the State.<sup>5</sup>

As time passed, the Christian population in Aelia increased dramatically. The Christians were Arab and non-Arab from different places, which meant that they differed in language, culture, and civilisation. Although they had the same religion, they were divided into many different sects and groups. This resulted in instability in the religious life of the Christians in Aelia.<sup>6</sup>

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*Invasion (634-1099)*, Mu’sasat al-Dirāsāt al-Filastīnyyah, (Beirut 2000 AD), 1<sup>ST</sup> Edition, p. 1, (Hereinafter cited as: ‘Athāminah, *Filastīn fī Khamsat*)

<sup>3</sup> Shahīd, ‘Irfān, *Byzantium and the Arabs in the Fourth Century*, Dumbarton Oak, (Washington 1984 AD), p.339, (Hereinafter cited as Shahīd, *Byzantium*).

<sup>4</sup> ‘Athāminah, *Filastīn fī Khamsat*, *op. cit.*, pp. 6-9.

<sup>5</sup> Abū ‘Iyān, ‘Azmī Muhammad, *al-Quds Bāin al-Ihtilāl wa al-Tahrīr ‘Abr al-‘Usūr al-Qadīmah wa al-Wstā wa al-Hadīthah*, (3000 B.C-1967 AD), Mu’asaset Bākīr lil-Dirāsāt al-Thaqāfyah, (al-Zarqā’-Jordan 1413 AH /1993 AD), 1<sup>ST</sup> Edition, p.134, (Hereinafter cited as: Abū ‘Iyān, *al-Quds*).

<sup>6</sup> *Ibid.*, pp. 127-133.

The instability between the different sects was clearly obvious after the rise of the problem over the nature of Christ. Disagreement existed between the Monophysites and the Byzantine emperor. The Byzantine emperor believed in the unity of Christ (God and man), acknowledged in two natures, without confusion, change, division or separation; while others believed that Christ had only God's nature.<sup>7</sup> They allowed only one nature in the person of Christ, who was said to be a composite person, having all the attributes, divine and human; however, the substance bearing these attributes was no longer a duality, but a composite unity. The emperor Heraclius tried unsuccessfully to impose his own beliefs on the rest of the Christians, and attached those beliefs to the central government; unfortunately, the general methods of reconciliation which he adopted served only to increase dissension. Those Christians who opposed the emperor's belief suffered religious persecution and violence.<sup>8</sup> Ranciman claims that the Christian emperors were not very tolerant; Christianity was an exclusive religion, and they wished to use it as a unifying force to bind all their subjects to the government.<sup>9</sup>

To conclude, it can be seen that the situations of the Christians in Aelia were full of conflict, dispute and disagreements accompanied by persecution for those who did not follow the empire's beliefs.

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<sup>7</sup> Ranciman, Steven, *A History of the Crusades, The First Crusade and the foundation of the Kingdom of Jerusalem*, Cambridge University Press (Cambridge 1987 AD) Vol. 1, p. 12 (Hereinafter cited as: Ranciman, *A History of the Crusades:1*)

<sup>8</sup> Ibid., Vol. 1 p. 13.

<sup>9</sup> Ibid., Vol. 1, p.6.

### 4.3 Steps towards the conquest of Aelia (Islamic Jerusalem)

It is well known that Muslims had been interested in Aelia (Islamic Jerusalem) since the time of the Prophet Muhammad. Furthermore, the Prophet himself had issued a number of traditions (*Ahādīth*), in which he informed the Muslims of the conquest of *Bayt al-Maqdis* (Islamic Jerusalem). For instance, the Prophet's statement to *Shaddād Ibn Awss* that:

'...*Al-Shām* will be conquered, and *Bayt al-Maqdis* will be conquered, and your sons will be the *Imams* there, if Allah wills'.<sup>10</sup>

Another example is the Prophet's statement to 'Awf Ibn Mālik when he asked him to look for six incidents before the last day:

'O 'Awf, Count six things between now and judgment day. The first is my death... and the second is the conquest of *Bayt al-Maqdis* ...'<sup>11</sup>

In addition, the Qur'ān and the Prophetic traditions made Islamic Jerusalem holy to every Muslim, long before Muslims set foot in Palestine, when the Prophet stated the significance of Islamic Jerusalem and the *al-Aqsā* Mosque in Islam, in a number of Prophetic traditions (*Ahādīths*); for instance, Abū Hurairah narrated:

<sup>10</sup> Al-Haytamī, 'Alī Ibn Abī Bakr, *Manba' al-Fawā'id wa Majma' al-Zawā'id*, Vol. 9, p. 411, cited in al-Maqdisī, Muhammad Ibn 'Abd al-Wāhid, *Fadā'il Bayt al-Maqdis*, Edited by al-Hāfiz M, Dār al-Fikr (Beirut 1988 AD), p.69.

<sup>11</sup> Al-Bukhārī, *Sahīh Al-Bukhārī*, op. cit., Vol. 2, Part 4, p.68, Ibn Hanbal, Imām Ahmad Ibn Muhammad, *Al-Musnad*, explained and annotated by al-Za'in H, Dār Al-Hadīth, (Cairo, 1416 AH /1995 AD), 1<sup>ST</sup> Edition, Vol. 17, p. 194, Hadīth No: 23867.



‘The Prophet said: set out intentionally on a journey only to three mosques i.e. *Al-Masjid Al-Harām* (in Makka), *Masjid Ar-Rasūl* (in *Al-Madīnah*) and *al-Masjid Al-Aqsā*, (in Islamic Jerusalem)’.<sup>12</sup>

The Prophet showed the significance of Islamic Jerusalem to the Muslims, despite the fact that the whole area including of Islamic Jerusalem was under the domination of the Byzantines. The Islamic State in *Madīnah* at that time was still in its early stages, and the Muslims were still relatively weak. As a result of the significance of Islamic Jerusalem in Islam, Muslims made it their holy duty to bring holiness back to this city.

The Prophet Muhammad (PBUH) started his mission in the early years of the seventh century AD, when Aelia had been under control of the Romans for more than six centuries. The Prophetic mission had a profound influence on the history of Islamic Jerusalem; the preparations for the campaign to conquer Aelia (Islamic Jerusalem), safeguard the borders of natural Syria from the danger of the Byzantine, and destroy their prestige occurred through three major events in the Prophet’s lifetime. These events were: the battle of *Mu’ta* in 8 AH (629 AD),<sup>13</sup> the raid of *Tabūk* in 9AH (630 AD)<sup>14</sup>, and Osāma Ibn Zayd’s mission in 11AH (631 AD).<sup>15</sup> El-‘Awaīsī discusses these events, through their synergistic effect, resulted in the following. First of all, it was a way to show Muslims how to spread the message of Islam outside the Arabian Peninsula. Secondly, these events resulted in the destruction of Byzantine prestige.

<sup>12</sup> Al-Bukhārī, *Sahīh Al-Bukhārī*, *op. cit.*, Vol.1, Part .2., p. 56; Also see Muslim, *Sahīh Muslim*, *op. cit.*, Vol. 2, p. 309, Hadīth: No. 827.

<sup>13</sup> Ibn Hishām, *Al-Sīrā al-Nabawiya*, *op. cit.*, Vol. 4, pp. 5-16

<sup>14</sup> *Ibid.*, pp. 96-113.

<sup>15</sup> *Ibid.*, pp. 163,196.

Finally, they were preliminary steps on the way to the great campaign that was to be directed at *al-Shām* and save Aelia.<sup>16</sup>

The Prophet on several occasions had preceded his army toward natural Syria '*al-Shām*' on two occasions: the battles of *Mu'ta* and *Tabūk*. The preparation for Osāma Ibn Zayd's mission took place near the end of the life of the Prophet Muhammad.<sup>17</sup> After the death of the Prophet the first Caliph, Abū Bakr, completed Osāma Ibn Zayd's mission and proceeded with Muslim armies to conquest *al-Shām*. Ibn al-Murajja noted that Abū Bakr in his letter to Khālīd Ibn al-Walīd said:

'Hurry to your brothers in *al-Shām*. By Allah's name, if a village from the villages of *Bayt al-Maqdis* (Islamic Jerusalem) has been conquered this is better to me than conquering Iraq'.<sup>18</sup>

After Abū Bakr's death, 'Umar Ibn al-Khattāb, his successor, continued this project. This resulted in the conquest of Aelia (Islamic Jerusalem), which became part of the Islamic State.

<sup>16</sup> El-'Awaīsī, A. *Jerusalem in Islamic history and spirituality: the significance of Jerusalem in Islam, an Islamic reference*. Islamic Research Academy (Dunblane, 1997 AD), p. 24.

<sup>17</sup> Al-Mubarakpūrī, *Ar-Raheeq Al-Makhūm*, *op. cit.*, pp. 383-475.

<sup>18</sup> Ibn al-Murajja, Abū al-Ma'alī al-Musharraf. *Fadā'il bayt al-Maqdis wa-al-khalīl wa-fadā'il al-Shām*. Edited with an introduction by Livne-Kafri, O. Aimashreq Ltd. (Shfaram 1995 AD), p. 55, (Hereinafter cited as: Ibn al-Murajja, *Fadā'il bayt al-Maqdis*)

## 4.4 The conquest of Aelia (Islamic Jerusalem)

### 4.4.1 The reason behind 'Umar's arrival

It is necessary to mention that there is disagreement between the historians with regard to the actual reason behind the arrival of 'Umar Ibn al-Khattāb in *al-Shām*. Some historians state that 'Umar's arrival was a response to the request of the Christians of Aelia after they had agreed with Abū 'Ubaydah to surrender the city only in the presence of Caliph 'Umar personally.<sup>19</sup> While other historians believe the reason to be the response to the call of 'Amr Ibn al-'As, when he wrote to 'Umar after 'Amr understood from the Christians of Aelia that the person to whom Jerusalem would be submitted was of the name of 'Umar.<sup>20</sup> Other historians suggest that 'Umar came to *al-Shām* to sort out and organize a number of matters, such as dividing the booty, supervising the judicious distribution of properties taken by the Muslims, organizing the military commands in *al-Shām*, making arrangements for the stipends paid to troops and for their rations, as well as setting the inheritance of those martyred in battle. During 'Umar's stay at *al-Jabīyah*, Aelia was conquered and 'Umar went to receive the keys and witness the surrender.<sup>21</sup>

<sup>19</sup> Al-Tabarī, *Tārīkh al-Umam*, op. cit., Vol. 2, p. 449, Al-Balādhurī, *Futūh al-Buldān*, op. cit., p. 189, Al-Wāqidī, *Futūh al-Shām*, op. cit., pp. 326-328, Ibn al-Athīr, *al-Kāmil*, op. cit., Vol. 2, pp. 347-348, Ibn al-A'them, Abū Muhammad Ahmad, *Kitāb al-Futūh*, Edited by Shīrī A. Dār al-Adwā' (Beirut 1411 AH /1991 AD), 1<sup>ST</sup> Edition Vol.1, p. 224. (Hereinafter cited as: Ibn al-A'them, *Kitāb al-Futūh*) Ibn al-Murajja, *Fadā'il bayt al-Maqdis*, op. cit., p. 45.

<sup>20</sup> Al-Tabarī, *Tārīkh al-Umam*, op. cit., Vol. 2, p. 448, Ibn al-Jawzī, Abū al-Faraj 'Abd al-Rahmān Ibn 'Alī, *Fadā'il al-Quds*, Edited and Introduced by Jbūr J S. Dār al-Āfāq Al-Jadīda (Beirut 1979 AD), p.122, (Hereinafter cited as: Ibn al-Jawzī, *Fadā'il al-Quds*), Ibn al-Athīr, *al-Kāmil*, op. cit., Vol.2, p. 347, Ibn Kathīr, Abū al-Fidā' Ismā'il, *Al-Bidāya wa al-Nihāya*, Dār al-Fikr (Beirut 1398 AH/ 1978 AD), Vol. 4, Part 7, pp. 54-55, (Hereinafter cited as: Ibn Kathīr, *Al-Bidāya*)

<sup>21</sup> Al-Balādhurī, *Futūh al-Buldān*, op. cit., p. 54.

It is worth mentioning that the majority of Muslim and non-Muslim historians agree that the conquest of Aelia (Islamic Jerusalem) took place after the decisive battle of *al-Yarmūk*. This battle occurred in 15 AH (636 AD) and was considered by Gabrieli as one of the most important battles in history; here the Muslims defeated the Byzantine army, which was a major turning point in the conquest of Aelia.<sup>22</sup>

#### 4.4.2 The reasons behind insisting on the presence of ‘Umar

Sophronious, the Patriarch of Aelia, insisted on the presence of Caliph ‘Umar when submitting the city. There is no doubt that by searching through the narrations, it can be noted that the Patriarch rejected even negotiating with the ‘Umar’s commanders during the Muslim siege of the city. As life in Aelia became more difficult because of the siege, Sophronious informed his people that he would surrender the city to the Muslims who had besieged the city, if the Caliph of the Muslims had the name of ‘Umar and had a certain descriptions. His reasons were that he had read this in Christian holy books.<sup>23</sup> When the Muslims knew the Patriarch’s request, namely offering to surrender the city and pay the *Jizyah*, on condition that the Caliph himself came and signed the pact with him and received the surrender, some of them tried to trick the Patriarch.<sup>24</sup> Sharhabīl suggested that, instead of waiting for ‘Umar to come all the way from *Madīnah*, Khālīd Ibn al-Walīd should be sent forward as the Caliph ‘Umar. ‘Umar and Khālīd were very similar in appearance and, since the people of Aelia would only know ‘Umar by report, they would not know who the real ‘Umar was.

<sup>22</sup> Gabrieli, Francesco, *Muhammad and the Conquest of Islam*, Translated from the Italian by Luling V. and Linell R, World University Library, (Hampshire 1977 AD), p.150.

<sup>23</sup> Al-Wāqīdī, *Futūh al-Shām*, *op. cit.*, Vol. 1, p. 322

<sup>24</sup> *Ibid.*, pp.325-326.

On the following morning the Patriarch was informed of the Caliph's presence, and Khālīd, dressed in simple clothes of the poorest material, as was 'Umar's custom, rode up to the fort for talks with the Patriarch. But it did not work. Khālīd was too well known, and there were Christian Arabs in Jerusalem who had visited *Madīnah* and seen both 'Umar and Khālīd, and were able to note the differences. Moreover, the Patriarch must have wondered how the great Caliph happened to be there just when he was needed! Therefore the trick was soon discovered, and the Patriarch refused to talk with Khālīd. When Khālīd reported the failure of this mission, Abū 'Ubaydah wrote to 'Umar about the situation, and invited him to come to Aelia.<sup>25</sup> The researcher suspects the authenticity of this narration for a very simple reasons firstly, that is Muslims are not known to be deceivers, and secondly, the personality of 'Umar was known to a number of Christians in Aelia (Islamic Jerusalem).

The researcher doubts that there was a Christian prophecy with 'Umar's description in the Christian holy books because of the following unanswerable questions. First of all, why did the Patriarch not mention anything about the Caliph 'Umar earlier during the period of siege? It is well known that Aelia was under siege for a long period of time. If the Patriarch had this prophecy, why did he not offer to surrender the city from the beginning? On the other hand, the researcher could not find any reports made by priests or monks in *al-Shām* or Aelia mentioning anything about the prophecy of 'Umar's description. This is especially important because Aelia was important to Christians all over *al-Shām* and *al-Shām* had fallen into the hands of the Muslims; also a number of peace pacts had been concluded with Muslims at that time. Therefore, why was the prophecy of 'Umar's descriptions not mentioned to

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<sup>25</sup> Al-Wāqīdī, *Futūh al-Shām*, *op. cit.*, Vol. 1, p.326.

Muslims, especially when they were preparing to proceed towards Aelia (Islamic Jerusalem)?

It can be concluded that the Patriarch wanted Caliph 'Umar to come personally and receive the keys of the city for several reasons. Firstly, due to the sanctity of Aelia for Christian, the Patriarch preferred the surrender to take place in the presence of the head of the Muslim State rather than a local commander, to fully guarantee their places of worship, as well as their lives. Secondly, the Patriarch may have had a number of issues and wanted them to be negotiated with 'Umar as head of State in order to ensure the implementation of these conditions later on.

Finally, it could be said that the Patriarch was assured that Aelia would definitely fall into the hand of Muslims, especially after the long period of siege. The Muslim armies were able to tolerate the very bad weather conditions, despite not being familiar with such weather.<sup>26</sup> Having suffered hardship and pain, the people of Aelia soon realized that they would not stand a chance against the Muslim forces. The people of Aelia also had not forgotten the massacres, pillage and destruction of holy places carried out by the Persians when they took the city two decades earlier, and feared that the Muslims would do the same if they took the city by force. They should have known that Muslims were different; however, some still had fears for their security.<sup>27</sup> Sensing that the Muslims were keen to avoid bloodshed, the city's Christian defenders tried to exploit the situation in an attempt to extract maximum guarantees for their security. A treaty of peace signed in person by the head of the State, rather than the local commander, would provide such guarantees. All of these

<sup>26</sup> Al-Wāqidi, *Futūh al-Shām*, *op. cit.*, Vol.1, p.323.

<sup>27</sup> Ibn al-A'them, *Kitāb al-Futūh*, *op. cit.*, Vol.1, p.223.

reasons were justification as to why the Patriarch insisted on Caliph 'Umar coming himself.

Another proof that 'Umar's description was not a prophecy in their holy books, as mentioned by the historian Theophanes,<sup>28</sup> is that when the Patriarch saw Caliph 'Umar with his old garment walking into the city, the Patriarch recited '*When ye therefore shall see the abomination of desolation, spoken of by Daniel the Prophet, stand in the holy place, (whoso readeth, let him understand:)*'.<sup>29</sup> It seems that the Patriarch was contradicting himself: he first insisted that the Caliph 'Umar should come in person, and then considered his arrival as dirtying the holy city. It is obvious that the Patriarch's request was some kind of deviousness; especially since it was not an easy matter for Christians to surrender their holy city. Moreover, the researcher inclines to consider the religious dispute between the Patriarch and Byzantine Empire, as discussed previously, was among the reasons behind the surrender of Aelia.<sup>30</sup> Therefore, it might be considered a supporting factor for the Patriarch to surrender the city to the Muslims; in this way he would get rid of the supremacy of the Byzantine Empire.

On 'Umar Ibn al-Khattāb's side, he would have wanted, sooner or later, to visit Aelia (Islamic Jerusalem). It was, after all, connected with many Prophets, including

<sup>28</sup> Theophanes, *The Chronicle of Theophanes Confessor, Byzantine and Near Eastern History AD 284-813*, Translated with Introduction and Commentary by Mango C. and Scott R, with the assistance of Greaterx G. Clarendon Press (Oxford 1997 AD), p. 471.

<sup>29</sup> The Holy Bible, Matthew, Cambridge University Press (U.K) n.d, Chapter 24, Verse 15.

<sup>30</sup> Sahas, Daniel, *Patriarch Sophronious, 'Umar Ibn al-Khattāb and the Conquest of Jerusalem'*, in Hādīa Dājānī-Shkeel and Burhān Dajānī, *Al-Sirā' al-Islāmī al-Faranjī 'alā Filastīn fī al-Qurūn al-Wastā* (The Frankish (Ifrajī) conflict over Palestine during the Middle Ages The Institute for Palestine Studies, (Beirut, 1994 AD), p. 65, (Hereinafter cited as: Sahas, *Patriarch Sophronious*).

David, Solomon and Jesus, and with the Night Journey (*Isrā'*) and the Ascending (*Mi'rāj*) of Prophet Muhammad. So, without much difficulty, he decided to accept the Christian conditions and went to Aelia, thus combining a visit to the holy city with gaining the goodwill and trust of its people.

Caliph 'Umar arrived in Aelia, with the simplicity and humility of appearance and manner so characteristic of early Muslims, to receive in person the submission of a place as holy as Aelia (Islamic Jerusalem). He was advised upon his arrival that this was not an impressive scene for the locals who were used to seeing kings and emperors well-dressed and guarded.<sup>31</sup> He answered:

'We are a people whom Allah has empowered with Islam. We do not seek pleasure other than Allah'.<sup>32</sup>

An assurance giving the inhabitants of Aelia from the Christians every possible guarantee of security and religious freedom was signed as soon as 'Umar arrived in Aelia.

Sophronious was delighted that Caliph 'Umar had accepted his offer and had come to Aelia for it to be surrendered to the Muslims. In addition, he invited 'Umar to pray in the church when the time of prayer was due. Sahas argues that Sophronious considered the Muslims and the Caliph as protectors of Aelia and its holy places

<sup>31</sup> Al-Wāqidī, *Futūh al-Shām*, *op. cit.*, Vol. 1, p. 333.

<sup>32</sup> Al-Hanbalī, Mujīr al-Dīn, *al-Uns Al-Jalīl bi Tārīkh al-Quds wa al-Khalīl*, Edited and Edited by Abū Tabāna A. Maktabat Dandīs (Hebron-Palestine 1420 A.H /1999 A.D), 1<sup>ST</sup> Edition., Vol. 1, p. 376. (Hereinafter cited as: Al-Hanbalī, *al-Uns Al-Jalīl*), Vol. 1, p.



from the domination of the Jews who were his enemies.<sup>33</sup> He claims that the conquest of Aelia led to the emergence of an opportunity for the Christians of Jerusalem to contain the Jews, with the help of the Muslims through the concessions granted to them in 'Umar's assurance of safety.<sup>34</sup> It is worth mentioning that this claim has been totally rejected in the latest study of 'Umar's assurance, namely that by El-'Awaīsī.<sup>35</sup>

#### 4.5 'Umar's assurance of safety to the people of Aelia (Islamic Jerusalem) *'Al-'Uhda al-'Umarīya'*

Despite the fact that this document is of great importance, since it defines the status of the Christian communities under the new Muslim rule and establishes the foundation of the way Muslims should treat Christians in Islamic territories, especially in Aelia (Islamic Jerusalem), it has resulted in creating different opinions concerning its authenticity. It is, therefore, important to briefly mention the various versions of this assurance of safety and then examine and clarify two of these versions, for reasons to be mentioned later. These are al-Tabarī's version, which came almost three centuries after the events; his version is regarded as the most famous and the longest. The other is the orthodox patriarchate version.

##### 4.5.1 Various versions of 'Umar's assurance of safety

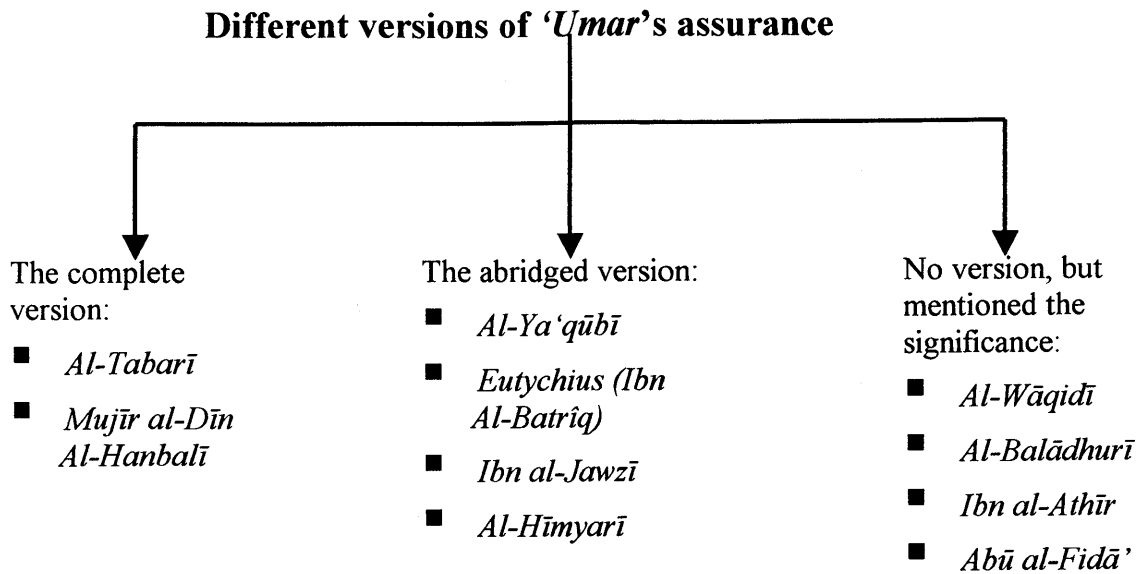
It is obvious from searching throughout the literature that not all historians have reported the text of 'Umar's assurance. It can be clearly noticed that the early

<sup>33</sup> Sahas, *Patriarch Sophronious, op. cit.*, p.71.

<sup>34</sup> Ibid., p. 54.

<sup>35</sup> El-'Awaīsī, *'Umar's assurance, op. cit.*, pp. 77-78.

historians such as al-Wāqidī (died 207AH/822AD), al-Balādhurī (died 279AH/892AD), Ibn al-Athīr (died 630AH /1233 AD), and Abū al-Fidā' (died 732AH /1313AD) were confined to mentioning the significance of the assurance rather than the actual text itself. Other historians such as al-Ya'qūbī (died 284 AH /897 AD), the Patriarch of Alexandria, Eutychius (Ibn al-Batrīq) (died 328 AH /940 AD), al-Tabarī (died 310 AH /922 AD), al-Hīmyarī and finally Mujīr al-Dīn Al-Hanbalī (died 928 AH 1521 AD) Ibn al-Jawzī (died 597 AH /1200 AD) have reported the text of this document in their books, whether in an abridged version or as a long text. This is summarised in Figure 1 below.



**Figure 1: The various versions of ‘Umar’s assurance of safety.**

Among the earliest historians to report the contents of ‘Umar’s assurance without any text is al-Wāqidī, who mentioned it twice in his book *Futūh al-Shām*. He said in the first narration that when ‘Umar came to Aelia (Islamic Jerusalem) and was identified by its inhabitants, they opened the doors of the city and went out to ask for the pact, and the *Dhimmi* contract. They accepted that they were to pay *the Jizyah*. ‘Umar agreed and told them to go back. After being granted what they had asked for, they went back and left the doors of the walled city wide open<sup>36</sup> In his second narration, al-Wāqidī reported that ‘Umar went to Aelia and stayed there ten days after he had written the assurance for the Christian’s inhabitants of the city, and allowed them to stay in Aelia in return for them paying *Jizyah*.<sup>37</sup>

Al-Balādhurī mentioned three narrations about the circumstances of the conquest of Aelia (Islamic Jerusalem) and the significance of ‘Umar’s assurance. According to the first narration, when Abū-‘Ubaydah ‘Āmer Ibn al-Jarrāh was leading the siege of

<sup>36</sup> Al-Wāqidī, *Futūh al-Shām*, *op. cit.*, Vol .1, p. 336.

<sup>37</sup> *Ibid.*, p. 336.

the walled city of Aelia, the Christians approached and asked him to grant peace and safety to them like the Christians of the cities of *al-Shām*, in terms of *Jizyah* and *al-Kharāj* (the land tax). They were willing to conclude a peace treaty under one condition, namely that ‘Umar should come from *Madīnah* in person to conclude this treaty. Abū-‘Ubaydah wrote to ‘Umar, with the result that ‘Umar came to *al-Jābiyah*; whereupon he travelled from there to Aelia to conclude the peace treaty, and wrote them the assurance.<sup>38</sup> In the second narration transmitted by al-Balādhurī in the name of Yazīd Ibn Abū-Habīb, ‘Umar dispatched Khālīd Ibn al-Thābit al-Fahmī with troops from *al-Jābiyah* to Aelia. After a brief battle, the city was handed over to Khālīd who concluded a peace treaty according to which the area inside the city walls was to remain in the possession of the Christians, whereas the area outside became the property of the Muslims. The treaty was concluded on condition that ‘Umar would ratify it. Khālīd informed ‘Umar of the readiness of the inhabitants to surrender, whereupon the latter travelled from *al-Jābiyah* to Aelia, and took possession of the city on the conditions negotiated by Khālīd. Thereafter, ‘Umar returned to *Madīnah*.<sup>39</sup> In the third narration, al-Balādhurī reported that, Abū-‘Ubaydah went to Palestine after the conquest of *Qansārīn* in the year 16 AH and led the siege on Aelia where the inhabitants of Aelia asked him for a peace treaty. He accepted their request in year 17 AH, on the condition that ‘Umar himself would come to ratify and write to them accordingly.<sup>40</sup>

Ibn al-Athīr wrote a brief note regarding the significance of the peace treaty with the Christians of Jerusalem. He reported that the Christians of Aelia sent a delegation to

<sup>38</sup> Al-Balādhurī, *Futūh al-Buldān*, *op. cit.*, pp. 188-189.

<sup>39</sup> *Ibid.*, p. 189.

<sup>40</sup> *Ibid.*, p. 189.

‘Umar Ibn al-Khattāb while he was staying at *al-Jābiyah*. When the Muslims saw from their camp a detachment of horsemen with drawn swords glittering in the sun, they rushed to their arms in order to beat back what was believed to be an attack of enemy forces (meaning the Christians). However, ‘Umar realized at once that they were a delegation of inhabitants of Aelia who were coming to offer the surrender of Aelia. Whereupon, the Caliph wrote an assurance for the Christians of Aelia in return for them paying the *Jizyah*, and they opened the doors of the city for him.<sup>41</sup>

The above narrations show that the Christians of Aelia were granted an assurance of safety in return for them paying the *Jizyah* to Muslims. On the other hand, al-Ya‘qūbī was among the first historians to give an abbreviated narration of this document. His version is as follows:

‘You are given safety of your persons, properties and churches that will not be inhabited (taken over) or destroyed unless you cause some public harm’.<sup>42</sup>

Eutychins gave a similar text, which is as follows:

‘This is a document from ‘Umar Ibn al-Khattāb to the people of *Aelia*. They are given safety of persons, children (sons and daughters), and churches that will not be destroyed or inhibited (by Muslims)’.<sup>43</sup>

It appears that the above two versions do not differ much and were taken from the same source.

<sup>41</sup> Ibn al-Athīr, *al-Kāmil*, *op. cit.*, Vol.2, p.348..

<sup>42</sup> Al-Ya‘qūbī, *Tārīkh al- Ya‘qūbī*, *op. cit.*, Vol. 2, p. 101.

‘بسم الله الرحمن الرحيم هذا كتاب كتبه عمر بن الخطاب لأهل بيت المقدس إنكم آمنون على دمائكم وأموالكم وكنائسكم لا تسكن ولا تخرب إلا أن تحدثوا حدثاً عاماً’

<sup>43</sup> Sa‘īd Ibn al-Batrīq (Eutychius), *Al-Tārīkh al-Majmū‘ ‘Ala al-Tahqīq wa al-Tasdīq* (Beirut, 1905 AD), Vol. 2, p.16. (Hereinafter cited as: Sa‘īd Ibn al-Batrīq, *Al-Tārīkh al-Majmū‘*)

‘بسم الله من عمر بن الخطاب لأهل مدينة إيلياء، أنهم آمنون على دمائهم وأولادهم وأموالهم وكنائسهم ألا قدام ولا تسكن’

It is worth mentioning that Mujīr al-Dīn al-Hanbalī (died 928 AH /1521 AD) has also provided a similar text to al-Tabarī's version, quoted from Saīf Ibn Abī Hāzem via 'Uthmān via Khālīd and 'Ubāda. It may be noted that there is no difference between al-Tabarī's and al-Hanbalī's versions, except in some vocabulary which does not necessarily change the meaning. Ibn al-Jawzī (died 597 AH /1200 AD) gave nearly the same text, which was reported by Sayf via al-Tabarī. The only difference is that Ibn al-Jawzī's version comes as a summary to al-Tabarī,<sup>44</sup> this text runs as follows:

*al-Shām*

'Umar wrote to the inhabitants of *Baīt al-Maqdis* (Islamic Jerusalem): I guarantee for you the safety of your persons, properties, families, your crosses and your churches. You will not be taxed beyond your means, and whosoever decides to follow his people then he will be guaranteed safety (*Amān*) and you pay the *Kharāj* like the other cities of Palestine.'<sup>45</sup>

It should be added that, in Ibn al-Jawzī's version, he has substituted 'Alī Ibn Abī Tālib as a witness to 'Umar's assurance for 'Amr Ibn al-'Ās, who was mentioned in al-Tabarī's version. Nevertheless, history has proven that 'Alī Ibn Abī Tālib was at *Madīnah* at that time.<sup>46</sup>

<sup>44</sup> Al-Quda, *Mū'āhadit fatih Baīt al-Maqdis*, *op. cit.*, p. 274. See also El-'Awaīsī, 'Umar's assurance *op. cit.*, p. 50.

<sup>45</sup> Ibn al-Jawzī, *Fadā'il al-Quds*, *op. cit.*, pp. 123-124.

إني قد امتكّم على دماءكم وأموالكم وذراريكم وصلاتكم وبيعكم لا تكلفوا فوق طاقتكم . ومن أراد منكم أن يلحق لأمته فله الأمان . وأن عليكم الخراج كما على مدائن فلسطين . شهد عبد الرحمن ابن عوف وعلي ابن أبي طالب وخالد ابن الوليد ومعوية وكتب.

<sup>46</sup> Al-Tabarī, *Tārīkh al-Umam*, *op. cit.*, Vol. 2, p. 449, See also Abū al-Fidā', al-Mukhtaser, *op. cit.*, Vol. 1, p 200; See also Ibn al-Athīr, *al-Kāmil*, *op. cit.*, Vol.2, p.500, Ibn Kathīr, *Al-Bidāya op. cit.*, Vol.7, p. 55, See also El-'Awaīsī, 'Umar's assurance, *op. cit.*, pp. 50-51.

### 4.5.2 Al-Tabari's version of 'Umar's assurance of safety for the people of Aelia (Islamic Jerusalem)

It seems that the need to discuss al-Tabarī's version became an urgent matter. This version runs as follows:

'In the name of Allah, the most Merciful, the most Compassionate. This is the assurance of safety *Amān* that the servant of Allah 'Umar (Ibn al-Khattāb), the Commander of the Faithful, has granted to the people of Aelia (Capitolina). He has granted them an assurance of safety for their lives and possessions, their churches and crosses; the sick and the healthy of the City to everyone without exception); and for the rest of its religious community. Their churches will not be inhabited (taken over) nor destroyed (by Muslims). Neither they, nor the land, on which they stand, nor their cross, nor their possessions will be encroached upon or partly seized. The people will not be compelled (*Yukrahuna*) in religion, or any one of them maltreated (*Yadarruna*). No Jews should reside with them in Aelia.

The people of Aelia must pay the *Jizyah* tax like the people of the (other) cities, and they must expel the Byzantines and the robbers. As for those who will leave (the city), their lives and possessions shall be safeguarded until they reach their place of safety, and as for those who remain, they will be safe. They will have to pay tax like the people of Aelia. Those people of Aelia who would like to leave with the Byzantines, and take their possessions, and abandon their churches and crosses will be safe until they reach their place of safety; and whosoever was in Aelia of local people *Ahl al-Ard* (villager refugees from the villages who sought refuge in the City) before the murder of *fulān* so and-so may remain in the City if they wish, but they must pay tax like the people of Aelia. Those who wish may go with the Byzantines, and those who wish may return to their families. Nothing will be taken from them until their harvest has been reaped.

The contents of this assurance of safety are under the covenant of Allah, are the responsibility of His Prophet (Peace and blessing be upon Him), of the Caliphs, and of the Faithful if (the people of Aelia) pay the tax according to their obligations. The persons who attest to it are: Khālīd Ibn al-Walīd, 'Amr Ibn al-'Ās, 'Abd al-Rahmān Ibn

‘Awf, and Mu‘āwīyah Ibn Abī Sufyān. This assurance of safety was written and prepared in the year 15 (AH).<sup>47</sup>

This version, until 1953 AD, was regarded as the longest and most explicit text, containing the greatest degree of details and restrictions. It is important to mention that al-Tabarī was born at the end of 224 AH /839AD. He began writing his history after 290 AH /902AD, and completed it in 303AH /915 AD.<sup>48</sup> The version he provided is quoted from Saīf Ibn ‘Umar (died 170 AH /786 AD).

In 1953 AD, the Orthodox Patriarchate in Islamic Jerusalem published a new version of ‘Umar’s assurance, claiming it to be a literal translation of the original Greek text that is kept in the Greek Orthodox library in the *Phanar* quarter in Istanbul, in Turkey. A discussion of the new version will be provided later.

<sup>47</sup> Al-Tabarī, *Tārīkh al-Umam*, op. cit., Vol. 2, p. 449, The English translation quoted from El-‘Awaīsī, ‘Umar’s assurance, op. cit., pp. 53-55.

‘بسم الله الرحمن الرحيم هذا ما أعطى عبد الله: عمر أمير المؤمنين أهل إيلياء من الأمان. أعطاهم أماناً لأنفسهم وأموالهم ولكنائسهم وصلبانهم، وسقيما وبرينها وسائر ملتها. أنه لا تسكن كنائسهم ولا تقدم، ولا ينقص منها ولا من حيزها ولا من صليبهم ولا من شيء من أموالهم، ولا يكرهون على دينهم، ولا يضار أحد منهم، ولا يسكن بإيلياء معهم أحد من اليهود. وعلى أهل إيلياء أن يعطوا الجزية كما يعطي أهل المدائن. وعليهم أن يخرجوا منها الروم واللصوص. فمن خرج منهم فإنه آمن على نفسه وماله حتى يبلغوا مأمنهم، ومن أقام منهم فهو آمن، وعليه مثل ما على أهل إيلياء من الجزية. ومن أحب من أهل إيلياء أن يسير بنفسه وماله مع الروم ويخلي بينهم وصلبهم، فإنهم آمنون على أنفسهم وعلى بيعهم وصلبهم حتى يبلغوا أمنهم. ومن كان بها من أهل الأرض قبل مقتل فلان، فمن شاء منهم قعد وعليه مثل ما على أهل إيلياء من الجزية، ومن شاء سار مع الروم. ومن شاء رجع إلى أهله، فإنه لا يؤخذ منهم شيء حتى يحصد حصادهم. وعلى ما في هذا الكتاب عهد الله وذمة رسوله وذمة الخلفاء وذمة المؤمنين، إذا أعطوا الذي عليهم من الجزية.

شهد على ذلك: خالد بن الوليد وعبد الرحمن بن عوف وعمرو بن العاص ومعاوية بن أبي سفيان وكتب وحضر سنة خمس عشرة.

<sup>48</sup> El-‘Awaīsī, ‘Umar’s assurance, op. cit., p. 51.



### 4.5.2.1 Origin of al-Tabarī's version

It should be noted that al-Tabarī was among the few Muslim historians who supported their narrations by mentioning the chain of narrators (*Isnād*). However, despite this, 'Ajīn, after examining al-Tabarī's version, commented that the chain of narrators in this version is broken, and could not be attributed to the Caliph 'Umar Ibn al-Khattāb. He, therefore, refuted the authenticity of al-Tabarī's version of 'Umar's assurance, on this basis of the above reason, believing it be produced, and that it became popular, in circumstances when the Muslims were weak and was produced to show non-Muslims that Islam was tolerant of other religions.<sup>49</sup> It is worth mentioning that 'Ajīn believes that the pact of 'Umar, discussed in the previous section, should be the basis of the way in which Muslims should treat Christians.

The researcher agrees with 'Ajīn with regard to the problems in the chain of narrators of al-Tabarī's version. It is worth mentioning that the chain of narrators of this version contains only two narrators; the first is Khālīd Ibn Mi'dān al-Shāmī (died 108 AH /726 AD)<sup>50</sup> and the second is 'Ubādah Ibn Nusāī (died 118 AH /736 AD).<sup>51</sup> However, the researcher also believes that, even if the chain of the narrators is broken, there is a need to discuss the text itself to see to what extent this document can be accepted or rejected as a constitution for the way Muslims should treat Christians in Islamic Jerusalem. The reasons for this stem from three main issues,

<sup>49</sup> 'Ajīn, *Al-'Uḥda al-'Umarīya*, op. cit., p.71

<sup>50</sup> Al-'Asfarī, Khalīfah Ibn Khayyāt, *Tārīkh Khalīfah Ibn Khayyāt*, Rewayet Baqī Ibn Khālīd, Edited by Zakār S, Dār al-Fikr (Beirut 1414 AH/ 1993 AD), p. 265, (Hereinafter cited as: Al-'Asfarī, *Tārīkh Khalīfah*).

<sup>51</sup> Ibid., p. 274.

firstly, the first paragraph of this assurance is in line with other treaties issued to other cities in *al-Shām* area. Secondly, the versions narrated by historians before al-Tabarī did not differ much from the essence of al-Tabarī's version. And thirdly, 'Umar's action towards the Christians after the conquest, as shown later, reflects clear implementation of the conditions as stated in al-Tabarī's version.

#### 4.5.2.2 The core of the document

'Umar granted the people of Aelia safety for 'their persons, their goods and churches'. These were the ordinary terms of the assurance granted by the Muslims to all conquered people. It is obvious that the first paragraph, excluding the condition relating to the Jews, of al-Tabarī's version of 'Umar's assurance is similar and matches the line of treaties which Muslims used to issue to conquered cities. In other words, such guarantees were the normal practice among the conquering Muslims.<sup>52</sup> This reflects the spirit of tolerance towards non-Muslims in general and Christians in particular. This first paragraph makes it clear that the lives, properties and religion of the Christian subjects would be safe from any kind of interference or molestation and that the churches would not be demolished, and no injury would be done to them, nor would any encroachment be made on the areas near these churches. Freedom of religion is assured by the stipulation that there would be no compulsion on them in respect of their religion. Therefore, the starting of this document was well-known, in that the Muslim conqueror used to give it to the conquered people and the essentials of the document can be treated as authentic.

<sup>52</sup> For example, the peace treaty to the people of Damascus that was given by *Khālīd Ibn al-Walīd* in the year 14 AH. See Al-Balādhurī, *Futūh al-Buldān*, *op. cit.*, p.166. Another example is the peace treaty given to the people of *al-Jazīrah* that was given by 'Ayyād Ibn Ghanam in year 17 AH, See Abū-'Ubayd, *Kitāb Al-Amwāl*, *op. cit.*, p. 220.

Furthermore, El-‘Awaīsī argues that the assurance should not be regarded as a treaty. He believes that ‘Umar did not sign a treaty between two parties. However, he gave (أعطى) the people of Aelia an assurance of safety or a pledge.<sup>53</sup> The researcher agrees with this conclusion and believes that it is very important to distinguish between giving an assurance and asking for assurance. The researcher asserts this by stating that, in a normal case, the peace treaty comes as a result of negotiations of terms between two parties. In this case, only one party, the Muslims, signed ‘Umar’s assurance. The Christians led by Sophronious do not seem to have signed this document. This shows that this assurance has been given to them as a pledge rather than as a treaty.

#### 4.5.2.3 Exclusion of the Jews

The weaknesses in al-Tabarī’s version start with the Jews being excluded from living with the Christians in Aelia. It should be noticed that this restriction was not supported or even mentioned in any narrations preceding al-Tabarī’s. This does not seem to be implemented, especially as there was no mention in the Islamic literature that ‘Umar expelled Jews from residing Aelia nor disallowed them to stay there. Al-Quda argues that it is strange to have a condition in the assurance and not to implement it. He concludes that it is well-known that Muslims respect pacts and follow them accordingly.<sup>54</sup>

al-Dūrī refutes the condition of excluding Jews from living in Aelia in ‘Umar’s assurance. Al-Dūrī asserts that details pertaining to prohibiting a certain population

<sup>53</sup> El-‘Awaīsī, *‘Umar’s assurance*, *op. cit.*, p. 66.

<sup>54</sup> Al-Quda, *Mū‘āhadit fatih Baīt al-Maqdis*, *op. cit.*, p. 276.

from living in a conquered city were unusual and never appears in the texts of similar pacts in *al-Shām*. The reference to Jews in the assurance was apparently absent from all Muslim literature. He adds that it is believed that this information first appeared in Michael of Syrian's chronicle.<sup>55</sup> Another historian, al-Hīmyārī, attributed this condition to a specific demand by the Christians of Aelia.<sup>56</sup> Ibn al-Jawzī does not even make reference to the Jews in regard to 'Umar's assurance in his book *Fadā'il al-Quds*.<sup>57</sup>

El-'Awaīsī argues that the exclusion of Jews from residing in Aelia (Islamic Jerusalem) during the first Muslim conquest was not proven historically. He adds that this condition is unacceptable by Islamic law as it contradicts the basic teaching of Islam.<sup>58</sup> He supports his argument by citing verses 60: 8-9 from the Qur'ān.<sup>59</sup> Moreover, Karen Armstrong argues that:

<sup>55</sup> Al-Dūrī, 'Abd al-'Azīz, *Jerusalem in the early Islamic period: 7<sup>th</sup>-11<sup>th</sup> centuries AD*, in K.J 'Asali (ed.), *Jerusalem in History*, Olive Branch Press, (New York 1990 AD), p.107, (Hereinafter cited as: Al-Dūrī, *Jerusalem in the early Islamic period*).

<sup>56</sup> Al-Hīmyārī, Muhammad, *al-Rawd al-Mi'tār Fi Khair al-Aqtār*, Edited by 'Abbās I. Maktabat Lubnān, (Beirut 1984), 2<sup>nd</sup> Edition, p. 69.

<sup>57</sup> Ibn al-Jawzī, *Fadā'il al-Quds*, *op. cit.*, pp. 123-124.

<sup>58</sup> El-'Awaīsī, 'Umar's assurance, *op. cit.*, pp. 61-62.

<sup>59</sup> Qur'ān. *al-Mumtahana* 8-9.

'Allah forbids you not, with regard to those who fight you not for (your) faith nor drive you out of your homes, from dealing kindly and justly with them: For Allah loveth those who are just. Allah only forbids you, with regard to those who fight you for (your) faith, and drive you out of your homes, and support (others) in driving you out, from turning to them (for friendship and protection). It is such as turn to them (in these circumstances) that do wrong.'

لَا يَنْهَاكُمُ اللَّهُ عَنِ الَّذِينَ لَمْ يُقَاتِلُوكُمْ فِي الدِّينِ وَلَمْ يُخْرِجُوكُمْ مِنْ دِيَارِكُمْ أَنْ تَبَرُّوهُمْ وَتُقْسِطُوا إِلَيْهِمْ إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ \*  
إِنَّمَا يَنْهَاكُمُ اللَّهُ عَنِ الَّذِينَ قَاتَلُوكُمْ فِي الدِّينِ وَأَخْرَجُوكُمْ مِنْ دِيَارِكُمْ وَظَاهَرُوا عَلَى إِخْرَاجِكُمْ أَنْ تَوَلَّوْهُمْ وَمَنْ يَتَوَلَّهُمْ فَأُولَئِكَ هُمُ الظَّالِمُونَ

'When Caliph 'Umar conquered Jerusalem from the Byzantines, he was faithful to the Islamic inclusive vision. Unlike Jews and Christians, Muslims did not attempt to exclude others from Jerusalem's holiness. Muslims were being taught to venerate them'.<sup>60</sup>

Therefore, it was not the policy of Muslims to prevent *Dhimmīs* from living in the Islamic State, as all have equal right of residency in the city. This causes the researcher to believe that the reason behind this condition is the Christians-Jewish conflict, discussed below.

#### 4.5.2.4 Christians-Jewish conflict

As a result of the continuous conflict between the Christians and the Jews in Aelia, which was mainly in the light of their traditional conflict with the Byzantine empire after the rise of Christianity, the Christians had expelled and forbidden the Jews from entering or residing in Aelia since 132 AD<sup>61</sup> almost 500 years prior to the Islamic conquest. Although during this time, there were periods when Jews were allowed to stay in Aelia, i.e. at the time of the Persian occupation (614 - 628 AD).<sup>62</sup>

The conflict was apparent during the Islamic conquest of *al-Shām* that included Aelia. This showed firstly, that the Jews were very keen to go back to reside in Aelia, which was demonstrated in their eagerness for the Muslims to come and conquer the city and liberate them from the cruel aggression and oppressions of the Byzantines from which they had been for a long time.<sup>63</sup> Secondly, El-'Awaīsī quoted a Jewish

<sup>60</sup> Armstrong, Karen, *Sacred Space: The Holiness of Islamic Jerusalem*, Journal of Islamic Jerusalem studies (no 1, Vol.1, Winter 1997 AD), p. 14, (Hereinafter cited as: Armstrong, *Sacred Space*).

<sup>61</sup> Al-'Ārif, *Al-Mufasal fī Tārīkh Al-Quds*, op. cit., p. 68, Abū 'Iyān, *al-Quds*, op. cit., pp.132-133.

<sup>62</sup> Ibid., pp. 136-137.

<sup>63</sup> Al-Tabarī, *Tārīkh al-Umam*, op. cit., Vol. 2, p. 418.

historian stating that the Jewish response to the first Islamic conquest was positive in that it terminated the Byzantine rule.<sup>64</sup>

In his recent publication, 'Athāminah claimed that the Jews were amongst the large minority on the eve of the Islamic conquest who hated and resented the Byzantine Empire.<sup>65</sup> He added that the Byzantine Empire had the Jews at the top of their enemy list.<sup>66</sup> It seems that, at the time of the conquest of Aelia, the Jews were not in a state to be a threat to the Christians as they were not living in Aelia and were scattered over the region of Palestine and *al-Shām* as minorities. El-'Awaīsī argues that the condition of excluding the Jews is an infringement, addition, or interpretation invented by some Muslim jurist. He adds that these are produced to:

'please the rulers or match the general circumstances and socio-political developments that affected the position of the People of the Book, especially in the Abbasid State, during certain periods of history'.<sup>67</sup>

In addition to what has been said, the researcher believes that in later periods, when the Christians realised that Islamic Jerusalem was under Muslim rule and that Jews were no longer prevented from residing in the city, the Christians were threatened by this status and added such a condition to the assurance as shown in al-Tabarī's version.

<sup>64</sup> El-'Awaīsī, *'Umar's assurance*, *op. cit.*, p. 57.

<sup>65</sup> 'Athāminah, *Filastīn fī Khamsat*, *op. cit.*, p. 161.

<sup>66</sup> *Ibid.*, p. 161.

<sup>67</sup> El-'Awaīsī, *'Umar's assurance*, *op. cit.*, p. 65.

#### 4.5.2.5 The expulsion of and arrangements regarding the Byzantines

That Christians of Aelia must expel the Byzantines and thieves from the city is included in Al-Tabarī's version. It was quite natural that 'Umar should think of expelling them from Aelia. However, the problem appeared to be in the condition that was included in the assurance, which allowed the Byzantines either to stay in or leave Aelia. In the assurance, mention of it was linked to the *Jizyah* to be paid if they were to stay.

El-'Awaīsī argued that the common factor that encouraged 'Umar to put Byzantines and robbers in the same category was because both were thieves. He explained that the Byzantines had occupied and stolen the land and its resources, while robbers had stolen the people's possessions.<sup>68</sup> It should be noted that this condition contains an expression wherein the end of the sentence contradicts the beginning.<sup>69</sup> More specifically, the beginning of the sentence asserts that the Byzantines must be expelled while, towards the end, the text gives the Byzantines the choice of whether to leave or stay and pay the *Jizyah*.

In his attempt to solve this problem, al-'Affānī suggests that the text or this condition might have been placed to distinguish between two groups. The first were the Byzantine armies or soldiers who should leave. The other group, mentioned towards the end of the text, were those who visited the city as pilgrims or stayed there for

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<sup>68</sup> El-'Awaīsī, *'Umar's assurance*, op. cit., p. 65.

<sup>69</sup> Ibid., pp. 65-66..

worship around the Christian holy sites.<sup>70</sup> It is hard to reconcile between this claim and the text of the document. In addition, the early sources failed to offer confirmation or denial of al-‘Affānī’s suggestion. The researcher argues that ‘Umar might have put the Christians into two categories: the Arab and the non-Arab (Byzantines and others).

#### 4.5.2.6 *Fulān’s issue*

The inhabitants of Aelia (Islamic Jerusalem) were given the freedom to stay as long as they paid *Jizyah* or left the city with the Byzantines and thieves. This statement comes with an expression that cannot be implemented. The statement says ‘and whosoever was in Aelia among the local people (*Ahl al-Ard*) before the murder of *fulān*’.<sup>71</sup> Al-Quda argues that the document mentions an unknown name ‘*fulān*’ without highlighting the day of *fulān*’s murder. He adds that this makes it difficult to specify the actual person and, as a result, it is impossible to implement this condition, i.e. it is impossible that this would be the text of a binding treaty.<sup>72</sup> El-‘Awaīsī argues that the expression ‘before the murder of ‘*fulān*’ may refer to a very-well known person at the time of the Muslim conquest. He strengthens his argument by saying that there is a possibility that the name of the victim may have been mis-transcribed from al-Tabarī’s original manuscript,<sup>73</sup> as it could be ‘*falak*’ or ‘*falaj*’ or ‘*falāh*’ or ‘*fulān*’.<sup>74</sup>

<sup>70</sup> Al-‘Affānī, S. *Tadhkīr al-Nafs bi Hadīth al-Quds (wā Qudsāh)*, Maktabat Mua’th Ibn Jabal, (Egypt 1421AH / 2001AD), 1<sup>st</sup> Edition, Vol. 1, p. 197.

<sup>71</sup> *Fulān* in Arabic is used to refer to a person without specifying the name.

<sup>72</sup> Al-Quda, *Mu’ahadit fatih Bayt al-Maqdis*, op. cit., p. 276.

<sup>73</sup> El-‘Awaīsī, ‘*Umar’s assurance*, op. cit., p. 67.

<sup>74</sup> It should be noted that this expression ‘before the murder of *fulān*’ was absent from *Mujīr al-Dīn al-Hanbalī’s* version, which is very similar to *al-Tabarī’s* version, of ‘*Umar’s assurance*.



The researcher agrees with El-‘Awaīsī when he considers the expression ‘*fulan*’ may actually refer to a well-known person. However, the researcher still disagrees with him with regard to his interpretation. This is because by going back to the narrations regarding the circumstances surrounding the conquest of Aelia, it can be clearly seen that the name ‘*fulān*’ has been mentioned in the different narrations. For example, in al-Tabarī’s book under the chapter titled ‘*fath Bīsān wa Ajnādīn*’, he mentioned that when ‘Amr Ibn al-‘Ās was fighting with Byzantine commander Artabun in Palestine, ‘Amr used ‘Alqamah Ibn Hakīm together with Masrūq Ibn *Fulān* al-‘Akkī in fighting the Christians of Aelia.<sup>75</sup> From this, it seems that ‘*fulān*’ was a particularly well-known person as being the father of one of the Muslim leaders. Moreover, it would seem that this victim was neither an inhabitant of Aelia nor a Byzantine nor a thief.<sup>76</sup>

#### 4.5.2.7 Observations

Al-Tabarī’s version, written nearly 300 years after it was issued, invites some observations. The first to raise further doubt about this assurance is the date written at the end of the document. The date is 15 AH. There is no doubt that the date was added to the version later and was not originally a part of the document. The researcher argues that, if the date was correct, then this would have not resulted in the diversion of opinions regarding the date of the conquest of Aelia (Islamic Jerusalem).<sup>77</sup> Which, as seen before, is not the case. As a result, the year 15 AH (636

<sup>75</sup> Al-Tabarī, *Tārīkh al-Umam*, op. cit., Vol. 2, p. 447.

<sup>76</sup> El-‘Awaīsī, ‘*Umar’s assurance*, op. cit., p. 67

<sup>77</sup> Al-Tel, Othmān, *The first Islamic Conquest of Aelia (Islamic Jerusalem) A Critical Analytical Study of the Early Islamic Historical Narratives and Sources*, Al-Maktoum Institute Academic Press, (Dundee- U.K 2003), pp.109-120.

AD) is also inaccurate, since ‘Umar came to *al-Jābīah* at the beginning of 16 AH (637 AD), from where he came to Jerusalem at the beginning of 16 AH (637 AD). Further, it is only in the 16<sup>TH</sup> year after the *Hijrah* that ‘Umar inaugurated the *Hijrī* calendar<sup>78</sup> and it is very doubtful that the document had a date of the *Hijrī*, the more so because of the false date applied by Al-Tabarī according to Saīf. Besides, al-Balāthuri says that ‘Amr Ibn Al-‘Ās began the siege of Aelia after the victory of *al-Yarmūk*, 15 AH (636AD), and that Abū ‘Ubaydah came to help him in 16 AH (637AD). Therefore, it is inconceivable that any document before the 16<sup>TH</sup> year of the *Hijrah* is dated using the *Hijrī* calendar.<sup>79</sup> This means the date has been added later.

Lastly, another issue is the witnesses used in this document. One might ask, why is Abū-‘Ubaydah not one of the witnesses? Knowing that he was the chief commander of the Muslim armies. One might sooner expect Abū-‘Ubaydah to appear in the document among the rest of the witnesses. Moreover, he was the one who asked ‘Umar to come to negotiate the surrender of the city and commuted between the Christians of Aelia and ‘Umar.

#### **4.5.3 The Orthodox Patriarchates of Jerusalem’s version and the Christian – Christian conflict**

On the 1<sup>ST</sup> January 1953, the Orthodox Patriarchates of Islamic Jerusalem published a new version of ‘Umar’s assurance. They claimed this to be the literal translation of the original Greek text kept in the Greek Orthodox library in the Phanar quarter of

<sup>78</sup> Ibn Kathīr, *Al-Bidāya*, op. cit., Vol. 4, Part 7, pp.73-74

<sup>79</sup> Al-Quda, *Mū‘āhadit fatih Baīt al-Maqdis*, op. cit., p. 276.

Istanbul in Turkey.<sup>80</sup> As has been mentioned earlier, 'Umar's assurance of safety was the basis for the Muslim treatment of the Christians in Islamic Jerusalem. It seems that there is a need to examine the authenticity of this document, and to discover to what extent it can be attributed to the Caliph 'Umar Ibn al-Khattāb. The document, apparently published in English, as a whole translation, by the researcher for the first time, is as follows:

'In the name of Allah, the most merciful the most compassionate.

Praise to Allah who gave us glory through Islam, and honoured us with Imān, and showed mercy on us with his Prophet Muhammad, peace be upon him, and guided us from darkness and brought us together after being many groups, and joined our hearts and made us victorious over the enemies, and established us in the land, and made us beloved brothers.

Praise Allah O servant of Allah for his grace. This document of 'Umar Ibn Al-Khattāb giving assurance to the respected, honoured and revered patriarch, namely Sophronious, patriarch of the Royal sect on the Mount of olives, *tūr al-Zaitūn*, in holy Jerusalem, *al Quds al-Sharīf*, which includes the general public, the priest monks, nuns wherever they are. They are protected. If a *Dhimmī* guard the rules of religion, then it is incumbent on us the believers and our successors, to protect *Dhimmīs* and help them gain their need as long as they go by our rules. This assurance (*Amān*) covers them, their churches, monastery and all other holy places which are in their hands inner and outer: the Church of the Holy Sepulchre; Bethlehem, the place of Prophet *Issā* (Jesus); the big church; the cave of three entrances, east, north and west; and the remaining different sects of Christians present there and they are: the *Karj*, the *Habshī* and those who come to visit from the Franks, the Copts, the east Syrians, the Armenians, the Nestorians, the Jacobites, and the Maronites, who fall under the leadership of the above mentioned patriarch. The patriarch will be their representative, because they were given from the dear, venerable, and noble Prophet who was sent by Allah, and they were honoured with the seal of his blessed hand. He ordered to look after them and to protect them. Also we as Muslims (believers) show benevolence today towards those whose Prophet was good to them. They will be exempted from paying *Jizyah* and any other tax. They will be protected whether they are on sea or land, or visiting the Church of the Holy Sepulchre or any other Christians worship places, and nothing will be taken from them. As for those who come to visit the Church of the Holy Sepulchre, the Christians will pay the patriarch *Dirham* and a third of silver. Every believing man or woman will protect them

<sup>80</sup> Al-'Ārif, *Al-Mufasal fī Tārīkh Al-Quds*, op. cit., p. 91, .See also El-'Awaīsī, 'Umar's assurance, op. cit., pp. 68-74.

whether they are sultan or ruler or governor ruling the country, whether he is rich or poor from the believing men and women. This assurance was given in the presence of huge number of noble companions: 'Abdullah, Othmān Ibn 'Afān, Sa'id Ibn Zayd and 'Abd Al-Rahmān Ibn 'Awf and the remaining noble companions' brothers. Therefore, what has been written on this assurance must be relied upon and followed. Hope will stay with them, Salutation of Allah the high on our master Muhammad, peace be upon him, his family and his companions. All praise to Allah lord of the world. Allah is sufficient for us and the best guardian.

Written on the 20<sup>TH</sup> of the month *Rabī' al-Awal*, the 15<sup>TH</sup> year of the Prophet *Hijra*. Whosoever reads this assurance from the believers, and opposes it from now and till the Day of Judgment, he is breaking the covenant of Allah and deserving the disapproval of his noble messenger'.<sup>81</sup>

In his attempt to examine the authenticity of this version, Jāsser came to the conclusion that the document is forged, despite the fact that he did not examine the content of the text. He said that by closely scrutinising the text of this document, one

<sup>81</sup> Al-Ārif, *Al-Mufasal fī Tārīkh Al-Quds*, op. cit., pp. 92-93.

" بسم الله الرحمن الرحيم . الحمد لله الذي أعزنا بالإسلام وأكرمنا بالإيمان ورحمنا بنبيه محمد صلى الله عليه وسلم وهدانا من الضلالة وجعلنا بعد الشتات وألف قلوبنا ونصرنا على الأعداء ومكن لنا من البلاد وجعلنا إخواناً متحابين . واحمدوا الله عباد الله على هذه النعمة . هذا كتاب عمر بن الخطاب بعهد وميثاق أعطى إلى البطرك المبجل المكرم وهو صوفرونيوس بطرك الملت الملكية في طور الزيتون بمقام القدس الشريف في الاشتمال على الرعايا والقسوس والرهبان والراهبات حيث كانوا وأين وجدوا وان يكون عليهم الأمان . وان الذمي إذا حفظ أحكام الدين وجب له الأمان والصون منا نحن المؤمنون والى من يتولى بعدنا وليقطع عنهم أسباب جوارحهم كحسب ما قد جرى منهم من أسباب الطاعت والخضوع . وليكن الأمان عليهم وعلى كنائسهم ودياراتهم وكافت زيارتهم التي يدهم داخلا وخارجا وهي القمامة وبيت لحم مولد عيسى عليه السلام كنيسة الكراء والمغارة ذي الثلاثة أبواب قبلي وشمالي وغربي وبقية أجناس النصارى الموجودين هناك وهم الكرج والحيش والذين يأتون للزيارة من الإفرنج والقطب والسرمان والأرمن والنساطرة واليعاقبة والموارنة تابعين للبطريرك المذكور ويكون متقدماً عليهم لأهم أعطوا من حضرت النبي الكريم والحبيب المرسل من الله وشرفوا بحتم يده الكريمة وأمر بالنظر إليهم والأمان عليهم . كذلك نحن المؤمنون نحسن اليوم إكراماً لمن دخولهم للقمامة وبقية زياراتهم لا يؤخذ منهم شيء . وأما الذين يقبلون إلى الزيارة إلى القيامة يؤدي النصراني إلى البطرك درهم وثلث من الفضة وكل مؤمن ومؤمنة يحفظه ما امرنا به سلطاناً أم حاكماً أم والي يجري حكمه في الأرض غني أم فقير من المسلمين المؤمنين والمؤمنات . وقد أعطى لهم مرسومنا هذا بحضور جم الصحابة الكرام عبد الله وعثمان بن عفان وسعد بن زيد وعبد الرحمن ابن عوف وبقية الاخوة الصحابة الكرام . فليعتمد على ما شرحنا في كتابنا هذا ويعمل به . وأبقاه في يديهم وصلى الله تعالى على سيدنا محمد وآله وأصحابه والحمد لله رب العالمين حسينا الله ونعم الوكيل في العشرين من الشهر ربيع الأول سنة خمس وعشر للهجرة النبوية وكل من قرى مرسومنا هذا من المؤمنين وخالفه من الآن والى يوم الدين فليكن لعهد الله ناكثاً ولرسوله الكريم باغضاً ."

could easily see the obvious forgeries within it.<sup>82</sup> Nevertheless, he did not mention any examples of these forgeries.

Sahas devoted most of his article to discussing other writers, such as the Israeli historian Goitein, on the authenticity of 'Umar's assurance. He concludes that the Orthodox Patriarchate's version is the most authentic one.<sup>83</sup> Recently, in the researcher's contact with Sahas, he found the latter had begun to doubt the conclusion he reached by stating that he had found other such covenants attributed to 'Umar and to subsequent Caliphs and, much later, to Turkish authorities. He adds that the question of the rights of Christians over certain sacred localities seems to have been ardent in the mind of Christians; hence the existence of several documents, authentic or unauthentic. He is at present working on these texts and questions.<sup>84</sup>

Al-'Ārif, a Palestinian historian, doubts this version for the following reasons. Firstly, this version is totally different to those adopted by the Muslim historians. Secondly, the style of the document was written in a style different to the old Arabic one prevalent at the time of 'Umar.<sup>85</sup> He proved this by stating a number of examples, with which El-'Awaīsī agrees; he says that the author of the document did not adhere to the Arabic language and uses foreign expressions. El-'Awaīsī adds that

<sup>82</sup> Jāsser, Shafīq, *Tārīkh al-Quds wa al-'alāqa bayn al-Muslmīn wa al-Masīhyīn hattā al-Hrūb al-Salībīya*, Matāb'a al-Emān (Amman, 1409 AH /1989 AD), 2<sup>ND</sup> Edition, p.116, (Hereinafter cited as: Jāsser, *Tārīkh al-Quds*).

<sup>83</sup> Sahas, *Patriarch Sophroniou*, *op. cit.*, pp. 53-77.

<sup>84</sup> This information was obtained from Dr Sahas through contact with him via the Email on 23-5-2002, and 4-6-2002.

<sup>85</sup> Al-'Ārif, *Al-Mufasal fī Tārīkh Al-Quds*, *op. cit.*, pp. 91-94.

the document is written in poor Arabic; such as that the Arab writers did not know the word *al-milat* with *taa maftūha* (ت) at the end of (الملت). However, they knew it as *al-Milah* with *taa marbūta* (ة) at the end of (الملة). Also, the word *al-Jizyat* (الجزيت) was unfamiliar to the Arabs used this way, since they wrote it *al-Jizyah* (الجزية).<sup>86</sup> Al-‘Ārif argues that these unfamiliar words had been written during the late Ottoman or early Turkish era. El-‘Awaīsī agreed that the use of *taa maftūha* instead of *taa marbūta* was commonly used during the Ottoman rule of the Arab region. Al-‘Ārif claims that some lines were illustrated with various types of flower; such artistic decoration was unknown in the early century of Islam, especially in the first century after the *hijra*. Thirdly, Al-‘Ārif argues that Jerusalem was not known at the time of the Muslim conquest by any name other than Aelia.<sup>87</sup> However, in the Orthodox version it is known as *al-Quds al-sharīf*. El-‘Awaīsī argues that, logically, ‘Umar would address the inhabitants using the city name that they are used to rather than by a different name.<sup>88</sup> Fourthly, this version states the names of various Christian sects such as the Franks, Copts, Armenians, Nestorians, Jacobites and the Maronites. Al-‘Awaīsī argues that the mention of the word Franks in this document raises more doubts about the authenticity of the document, because the term was not known until the time of the crusaders.<sup>89</sup>

The assumptions that al-‘Ārif and El-‘Awaīsī reached in this document, that it might have been fabricated or written during the late Ottoman era at the beginning of the Turkish rule, can be proved by what the researcher has found in his search for

<sup>86</sup> El-‘Awaīsī, ‘Umar’s assurance, *op. cit.*, p. 71.

<sup>87</sup> Al-‘Ārif, *Al-Mufasal fī Tārīkh Al-Quds*, *op. cit.*, p. 93.

<sup>88</sup> El-‘Awaīsī, ‘Umar’s assurance, *op. cit.*, p. 71.

<sup>89</sup> *Ibid.*, pp. 72-73.

information about the document. It should be noted that, in the Ottoman Caliphate, the Christians were not classified as one community, as a result of belonging to various denominations and nationalities such as Latins, Copts, and Greek Orthodox etc. The majority of them were Greek Orthodox Arabs, their Patriarch had a seat in Istanbul where as 'Asalī claimed, made his voice heard.<sup>90</sup> While the other sects were small minorities in the Ottoman Caliphate, particularly in Islamic Jerusalem, and they had the support of the Catholic powers in Europe. The situation of the Christian communities in Islamic Jerusalem was closely affected by the vicissitudes of relations between the Ottomans and the European powers.<sup>91</sup>

The researcher can now surely argue that this document was invented during the Ottoman period. The evidence for this can be shown from what Golubovich, an Italian historian, mentioned in the 17<sup>TH</sup> century; an episode in the struggle between Greeks and Catholics for the Holy Places presents a typical case of such manipulation of the assurance of 'Umar. He adds that the Greek Patriarch

<sup>90</sup> 'Asalī, K.J, *Jerusalem under the Ottomans (1515-1831 AD)*, in 'Asalī K. J, (ed), *Jerusalem in History*, Olive Branch Press (New York 1990 AD), p.206, (Hereinafter cited as: 'Asalī, *Jerusalem under*)

<sup>91</sup> Ibid., p.206. Around the middle of the 16<sup>TH</sup> century, dissension erupted between the Latin and the Greek Orthodox over their respective rights in the Christian holy places. *Al-Dabbāgh* and *al-ʿĀrif* pointed out that sometimes the quarrels between the Christian communities were so intense that they developed into bloody clashes; they added that this happened several times in the 17<sup>TH</sup> century (e.g. 1666, 1669, 1674, 1756, 1808, 1810AD, etc.). See *Al-Dabbāgh*, Mustafa, *Bilādunā Filastīn*, Dār al-Shafaq, (Kufor Qar' 1988 AD), 2<sup>ND</sup> Edition, Vol. 10, pp. 147-149, *Al-ʿĀrif*, *Al-Mufasal fī Tārīkh Al-Quds*, *op. cit.*, pp. 363-634.

In 1740 AD France succeeded in forcing on the Ottoman Caliphate a new version of the capitulations, in which France asserted rule as protector of the Catholics and ensured the rights of the Franciscans in the Holy Sepulchre and other holy places in Islamic Jerusalem. One result of the attitude of the European powers was an unprecedented increase in dissension between the Christian communities; the most violence of these clashes broke out in 1757 AD between the Latins and the Greeks inside the Holy Sepulchre. See 'Asalī, *Jerusalem under*, *op. cit.*, p.221.

Theophanius (1608-1644AD) was aided in his struggle by his nephew Gregory, who spent three years in Istanbul forging assurances and pacts attributed to ‘Umar, Mu‘āwiyah, Sultān Muhammad II and Sultān Salīm. With the help of a substantial bribe of 40,000 ecus (type of currency) to the Sultan Murād IV (1623-1640 AD), Murād IV issued three decrees in 1634 AD, which gave the Greek Orthodox precedence over the Latin in religious festivals in the Holy Sepulchre. These decrees won the Greeks the sanctuaries of Jerusalem in 1634 AD.<sup>92</sup> However, in the following year, Theophanius and Gregory fell out and Gregory revealed the forgeries to the ambassadors from Istanbul. These were able to recall the Ottomans’ proclamation and restore the sanctuaries in 1636 AD.<sup>93</sup>

In his forgery, Gregory was also mistaken in assigning the assurance of ‘Umar to the fifteenth year of the *Hijra*, and in saying that Islamic Jerusalem surrendered unconditionally and with exemption of the *Jizyah*, which would have been unthinkable to ‘Umar. The Ottomans rejected this version in 1636, 1690, and 1852 AD.<sup>94</sup>

The question that presents itself is, Why did the Orthodox Patriarchat publish this document in 1953? To answer this question the researcher believes that the motives behind publishing this document in 1953, long after it had been actually written, were the same reasons behind its being invented in the first place. Dr al-Quda explained these reasons by stating that the Greek Orthodox Church were trying to

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<sup>92</sup> Ibid., p. 210.

<sup>93</sup> Golubovich, G. *Biblioteca bio-biblio grafica della Terra Santa e dell'Oriente Franciscano*, Quarracchi (Firenze 1906 AD), p. 163, (Hereinafter cited as: Golubovich, *Biblioteca*).

<sup>94</sup> Ibid., p. 163.



gain superiority over other Christian sects and make them follow their orders, which would result in putting an end to the conflict between the different Christian sects with regard to who should have control over the Holy Church of Sepulchre.<sup>95</sup> According to this document, the leadership should be with the Orthodox.

Moreover, El-‘Awaīsī argues that:

‘The Greek Orthodox Church in Jerusalem which represented the majority of the Christians in the City, felt in 1953 that it was the right time to issue a new version of ‘Umar’s Assurance which gave them the upper hand over the other Christian communities in Jerusalem. As Jordan was the first Arab Muslim political regime after four centuries of non-Arab rule, the orthodox Arabs expected the ruling Hashemite family of Jordan to show sympathy with their position in Jerusalem’.<sup>96</sup>

#### 4.5.4 Conclusion

‘Umar’s assurance of safety should be accepted as a historic fact that is fundamentally certain. The essential authenticity of the core of the document is beyond doubt, a guarantee for the Christians of Aelia, their churches and their goods; the exclusion of Byzantines and thieves; and the imposition of the *Jizyah*. However, the later date of its appearance, the evident elaborations in the text, the inaccuracies of dates, and its confusion and repetitions do not allow the researcher to state with certainty that it is the original and authentic text of the assurance made in 16 AH between ‘Umar and Sophronious. Thus it becomes obvious how later a set of obligations, i.e. excluding the Jews from residing in the city, were fabricated and added in the assurance accorded to ‘Umar.

<sup>95</sup> Al-Quda, *Mu‘ahadit fatih Bayt al-Maqdis*, op. cit., p. 278.

<sup>96</sup> El-‘Awaīsī, *‘Umar’s assurance*, op. cit., p. 74.

The researcher comes to the conclusion that the conflict between the Christians and Jews was one of the factors behind the later added conditions to 'Umar's assurance of safety in al-Tabarī's version. This was meant to give superiority to the Christians over the Jews. With regard to the Orthodox Patriarchate's version, this was the result of conflict between various Christian sects on who should lead the churches in Islamic Jerusalem. This was meant to give superiority to the Orthodox sect over the different Christian sects in Islamic Jerusalem.

#### **4.6 The first Islamic conquest of the city and the attitude of the Christians in Aelia (Islamic Jerusalem) towards the Muslims**

The central question to present itself is what was the attitude of the Christians in Aelia towards the Muslims and the Islamic conquest? Did the Christians welcome the Muslim conqueror? Jāsser, in his attempt to answer the above, came to the conclusion that there was no welcome from the Christian side of the conquest. He doubted all those historians who believed that Christians welcomed the Muslim conqueror. He supported his argument by selecting different examples in which the Christians fought fiercely against the Muslim army prior to the conquest in *al-Shām*, such as the battle of *Mu'ta*.<sup>97</sup> The researcher believes, in this case, even if they did fight fiercely, it was situation which required such action from them. In addition, they were part of the Byzantium army and had to get involved in military operations. Nevertheless, Jāsser went further, arguing that the Christians of Aelia changed their

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<sup>97</sup> Jāsser, *Tārīkh al-Quds*, *op. cit.*, p.117.

attitude towards Muslims on realizing the power of the Muslims and their inevitable defeat after *al-Yarmūk* battle.<sup>98</sup>

In contrast, Runciman went on to believe that the Christians in Aelia showed a great welcome to the Muslim conquerors as the Muslims had saved them from the persecution that they were facing from the Byzantine State.<sup>99</sup> He quoted the Jacobite patriarch of Antioch. Michael the Syrian, when he states:

‘The God of vengeance, who alone is the Almighty... raised from the south the children of Ishmael (meaning the Muslims) to deliver us from the hands of the Romans’<sup>100</sup>

Runciman adds, that even the Orthodox:

‘Finding themselves spared the persecution that they have feared and paying taxes that, in spite of the *Jizyah* demanded from the Christians, were far lower than in the Byzantine times, showed small inclination to question their destiny’.<sup>101</sup>

Al-Azdī states that one of the signs of welcome from the Christians was when the Muslim army reached the valley of Jordan and Abū ‘Ubaīdah pitched his camp at *Fahl*; the Christian inhabitants of the country wrote to the Muslims, saying:

‘O Muslims, we prefer you to the Byzantines, though they are of our own faith, because you keep faith with us and are more merciful to us and refrain from doing us injustice and your rule over us is better than theirs, for they have robbed us of our goods and our homes’.<sup>102</sup>

<sup>98</sup> Ibid., p.119.

<sup>99</sup> Runciman, *A History Of The Crusades: I, op. cit.*, Vol.1, p.20.

<sup>100</sup> Ibid., Vol.1, pp. 20-21.

<sup>101</sup> Ibid., p. Vol.1, pp. 20-21.

<sup>102</sup> Al-Azdī, Muhammad Ibn ‘Abdullah, *Tārīkh Futūh al-Shām*, Edited by ‘Amer ‘A, Mu’assasat Sijil al-‘Arab, (Cairo 1970), p.111.

Caetani discussed the issue from a different angle; he believed that it was the fear of religious compulsion on the part of the heretical emperor and a strong aversion towards Byzantium that made the promise of Muslim toleration appear more attractive than the connection with the Roman empire and a Christian government; and, after the first terrors caused by the passing of an invading army, there succeeded a profound revulsion of feeling in favour of the Muslim conquerors.<sup>103</sup> As a result of the above, Armstrong concluded that it was not surprising that Nestorian and Monophysite Christians welcomed the Muslims and found Islam preferable to Byzantium.<sup>104</sup>

Sahas claims that the trend of the patriarch, where he believes in the Chalcedonian principle relating to the dual nature (God and man) of Christ, and the Byzantine Emperor who believes in the unity of Christ, were the reasons behind the surrender of Jerusalem to the Muslims.<sup>105</sup>

Hitti discussed the issue from a different angle. He claims that the Christians in *al-Shām* in general and in Aelia in particular saw Islam as a new Christian sect and not a religion. Therefore, the controversy shown by Christians towards Islam was based on rivalry rather than being a clash of the fundamental principles.<sup>106</sup>

Those who supported the argument that Christians welcomed the Muslim conquerors based it on the fact that disagreements between the Monophysites and the Byzantine

<sup>103</sup> Caetani, *Annali Dell Islam*, op. cit., Vol. 3, pp. 813-814.

<sup>104</sup> Armstrong, *A History of Jerusalem*, op.cit., p. 232.

<sup>105</sup> Sahas, *Patriarch Sophronious*, op. cit., p. 65.

<sup>106</sup> Hitti, Philip, *Tārīkh al- 'Arab*, translated by Nāf M.M, (Beirut 1957 AD) Vol. 2,p.143.

emperor existed as discussed previously. The Christians were afraid that emperor Heraclius might commence a persecution in order to force his beliefs upon them. They, therefore, readily received the new Muslim conquerors who promised them tolerance of religions, and were willing to accept the Muslims if only so that they could free themselves of the danger that could come to them from Byzantium.

For this reason, Butler quoted Ibn al-‘Ibrī when he was describing the extent of the disagreement and how the Christians were optimistic towards the Muslim conquerors:

‘When our people complained to Heraclius, he gave no answers. Therefore the God of vengeance delivered us out of the hands of the Romans by means of the Arabs. Then although our churches were not restored to us, since under Arab rule each Christian community retained its actual possessions, still it profited us not a little to be saved from the cruelty of the Romans and their bitter hatred against us’.<sup>107</sup>

Butler commented sadly on this by saying that it is a melancholy reading, this welcome by Christians of Muslim rule was seen as providential and delivery from the rule of their fellow Christians. He further adds that this in itself shows how impossible was the emperor’s scheme for church union, and how it resulted in his ruin.<sup>108</sup>

Ranciman discusses how upon the Islamic conquest of Jerusalem, Christians alongside the Zoroastrians and the Jews became *Dhimmīs*; they were allowed freedom of religion and worship in return for their paying *Jizyah*. He adds that each

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<sup>107</sup> Butler, Alfred J, *The Arab conquest of Egypt and the last thirty years of the Roman dominion*, Oxford at the Clarendon Press, (Oxford 1978 AD), 2<sup>ND</sup> Edition, p. 158.

<sup>108</sup> *Ibid.*, pp. 158-159.

sect was treated as a 'semi-autonomous community' within the city, each under its religious leader who was responsible for its good behaviour to the Caliph's government<sup>109</sup>. Armstrong went further to argue that the Muslims had established a system that enabled Jews, Christians and Muslims to live in Jerusalem together for the first time.<sup>110</sup> She added that this was due to the inclusive vision, developed by the Muslims in Jerusalem, a vision which did not deny the presence and devotion of others but, as Armstrong argues, respected the rights of others and celebrated plurality and coexistence.<sup>111</sup>

El-'Awaīsī concluded his article by stating that:

'The Muslims liberated the Christians from the Byzantine occupiers of the city, rid the Jews from oppression at the hand of the Byzantines and restored their presence in the city'.<sup>112</sup>

The Islamic conquest of Aelia, in the words of 'Azzām Tamīmī:

'Put an end to centuries of instability, religious persecution and colonial rule once by the Egyptians, another time by the Greeks, a third by the Persians, and a fourth by the Romans'.<sup>113</sup>

In his comment on the attitude of the Christians on the eve of the Muslim conquest, Karlson pointed out that the Christians welcomed the Muslims. He added that the Christians favoured living under the rule of their cousins who shared with them the

<sup>109</sup> Ranciman, *A History Of The Crusades: 1, op. cit.*, Vol. 1.p21.

<sup>110</sup> Armstrong, *A History of Jerusalem, op. cit.*, p. 246.

<sup>111</sup> Armstrong, *Sacred Space, op. cit.*, p. 19.

<sup>112</sup> El-'Awaīsī, *'Umar's Assurance, op. cit.*, p. 78.

<sup>113</sup> Tamīmī, 'Azzām, *Jerusalem Under the Muslim Rule*, Al-Quds: Journal concerned with the Issues on Jerusalem, (Vol. 1, No: 2, April 1999 AD), p. 5, (Hereinafter cited as: Tamīmī, *Jerusalem*).

same language, custom, etc., rather than to live under the authority of the Greek, Romans or Persians.<sup>114</sup>

Al-Hamārnah agreed that the Christians, especially the Arabs, aided the Muslims in the war, as they saw the Muslims as a rescuer from the oppression of the Byzantines. He claimed that the Jacobite movement, which was very active against the injustice of the Byzantines, suddenly calmed down. Al-Hamārnah attributed this calmness to the Muslim conquest and the arrival of the Muslims. Finally, al-Hamārnah added that the Islamic conquest brought relaxation and peace to the eastern Christians who had been for a long time under the persecution of the State, in addition to the high taxes they had to pay.<sup>115</sup> Houranī agreed that the Christians welcomed the Muslim conquerors, but he discussed the reasons from a different angle. He claimed that for most of the Christian population it did not matter much whether Persians, Greeks or Muslims ruled them provided that they were secure, lived peacefully, and were reasonably taxed. He went further to say that, for some, the replacement of Greeks and Persians by Muslims even offered advantages. This was because those whose opposition to Byzantine's rule was expressed in terms of religious disagreement might find it easier to live under the Muslims who were mostly Arabs like them.<sup>116</sup>

<sup>114</sup> Karlson, Anghmar, *al-Fath al-Islāmī Harar al-Yahūd min al-Itehād al-Masīhī fī Ispānya*, Al-Quds al-'Arabī newspaper, (Vol. 7, Issue 2097, 5<sup>th</sup> February 1996 AD). p. 14, (Hereinafter cited as: Karlson, *al-Fath al-Islāmī*).

<sup>115</sup> Al-Hamārnah, Sālih, *Musahamat al-'Arab al-Masīhiyn fī al-Hadārah al-'Arabiyyah al-Islāmiah*, *Nazrah 'Ala Bilād al-Shām*, Afāq al-Islām, al-Dār al-Mutahidah lil-Nashr (Jordan) Vol. 3, No: 2, May 1999 A, pp. 77-78.

<sup>116</sup> Hourānī, Albert, *A History of the Arab Peoples*, Faber and Faber, (London 2002 AD), pp. 23-24.

Shams al-Dīn and Fletcher claimed that Muslims could be presented as saviour to the persecuted Monophysite Christians of *al-Shām*.<sup>117</sup> Tībāwī agrees with this; and adds that the Christians who benefited from the principles of Islamic tolerance welcomed the Muslims as being heaven-sent.<sup>118</sup>

The researcher is inclined to believe that the Christians in *al-Shām* in general and in Aelia in particular welcomed the Muslims, especially as they experienced favourable treatment of the Muslims towards them. Al-Balādhurī reported that the Christians preferred the Muslims because of their treatment rather than the Byzantines who were oppressing them, and that they would aid the Muslims against the Byzantines.<sup>119</sup> Furthermore, al-Balādhurī reported the story where the Muslim armies were unable to provide full protection to some cities in *al-Shām* and had to withdraw from these cities after realizing that the Byzantines were preparing to attack. As a result of not providing protection, the Muslims returned the collected *Jizyah* to the *Dhimmīs* people. The researcher also believes that the historical, cultural and ethnic affiliation factor played a great role in the acceptance of their Muslim conquerors by the Christians, since both were Arabs.

<sup>117</sup> Shams al-Dīn, Muhammad Mahdī, *al-Masīhiyah fī al-Maḥūm al-Thqāfī al-Islāmī al-Mu'āser*, in al-Nashrah, al-Ma'had al-Malakī lil- Dirāsāt al-Dīnyah, (Jordan), No: 18, Spring 2001AD, p. 5, see Fletcher, Fletcher, *The Cross and the Crescent*, *op. cit.*, p. 16, see also Tamīmī, *Jerusalem*, *op. cit.*, p. 7.

<sup>118</sup> Tībāwī, A.L., *Jerusalem, Its Place in Islam and Arab History*, The Institute for Palestine Studies, (Beirut 1969 AD), p. 11, (Hereinafter cited as: Tībāwī, *Jerusalem*).

<sup>119</sup> Al-Balādhurī, *Futūh al-Buldān*, *op. cit.*, p. 187.



#### 4.7 Muslim treatment of the Christians in light of 'Umar's assurance of safety

With regard to 'Umar's assurance of safety, Muslim treatment of the Christians was based on respect and security, which in turn would lay the foundation for a Muslim treatment. Any other behaviour would be a deviation from this foundation and would violate the true understanding of the treatment. The main points discerned from the assurance are the following. Firstly, personal and financial security; secondly, freedom of religion in belief and worship; thirdly, the right to be protected and be defended by the Muslim State; and finally, freedom of movement.<sup>120</sup> 'Umar's assurance, which is a reference text when it comes to relations between Islam and Christianity, shows how positively 'Umar saw the relationship between the Muslims and those of other religions.

As El-'Awaīsī states, 'Umar's assurance of safety's results significantly contrast with the destruction, killing, and displacement that had characterised the city's history until then.<sup>121</sup> The assurance is also regarded as being a major turning point in both historic and juristic terms. This assurance, according to Hamāmī, is the basis for defining the relationship between Islam and Christianity in Islamic Jerusalem. It is the document that, in all clarity and respect, laid the foundations not only for the era of Islamic expansion, but also for the centuries after that and for the future.<sup>122</sup> By

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<sup>120</sup> Hamāmī, Jamīl, *Islamic-Christian Relations in Palestine in a Civil Society 'An Islamic Point of View'*, March 1, 2000. <http://www.al-bushra.org/latpatra/hamami.htm>. Seen on 14/09/2002, (Hereinafter cited as: Hamāmī, *Islamic-Christian*)

<sup>121</sup> El-'Awaīsī, *'Umar's Assurance*, *op. cit.*, p. 47.

<sup>122</sup> Hamāmī, *Islamic-Christian*, *op. cit.*

studying the document, one can find that it contains principles that apply to all places and all times.

#### 4.8 ‘Umar Ibn al-Khattāb and the Christian holy places

The sanctity experienced upon the entrance of ‘Umar to Aelia (Islamic Jerusalem) was not only limited to Muslim places but was extended to places of worship belonging to other religions, and to the properties belonging to their followers. Among the events that show this and contribute to the good treatment of Muslims towards Christians was ‘Umar’s refusal of praying in the Church of the Holy Sepulchre. One of the guarantees ‘Umar gave in his assurance to the Christians regarding their holy places was that their churches would not be changed into dwellings or destroyed. With regard to their religious rights, no compulsion would be exercised against them. The Caliph followed this theory through with practice. According to Eutychius, who was an early historian to mention the following event, as soon as the Gate of Islamic Jerusalem was opened, ‘Umar entered the town with his companions and the Greek Orthodox Patriarch escorted him around the city. They then went and sat in the atrium (*sahen*) of the Church of the Holy Sepulchre. When the time for Muslim prayer came, he told the Patriarch Sophronious, ‘I wish to pray’. The Patriarch replied, ‘*Amīr* of the faithful, pray in the place where you are’. ‘Umar replied: ‘I shall not pray here’. Therefore the Patriarch led him to the church. But ‘Umar told him, ‘I shall not pray here either’, and he went out onto the stairway before the door of the church of St. Constantine, in the east. He prayed alone on the stairway. Then, having sat down, he told the Patriarch Sophronious, ‘Do you know, o Patriarch, why I did not pray inside the church? ‘Prince of the faithful’, said the Patriarch - I do not know why’. ‘Umar replied, ‘If I had prayed inside the church, it

would have been lost by you and would have slipped from your power; for after my death the Muslims would take it away from you, together saying, ‘‘Umar prayed here’. But give me a sheet of paper so that I may write you a decree. And ‘Umar made a decree in these terms: ‘The Muslims shall not pray on the stairs, unless it be one person at a time. But they shall not meet there for the public prayer announced by the prayer call’.<sup>123</sup> After having written this decree, he gave it to the Patriarch. The main reason for doing this is that if ‘Umar had done so, the Muslims might later have used that as an excuse to build a mosque there to commemorate the first Islamic prayer in Islamic Jerusalem. Dr Sahas commented on Sophronious’s attitude by stating that the Patriarch understood the need for ‘Umar to pray, himself being a religious man, and knew that a Muslim can pray anywhere, i.e. it does not have to be in a mosque.<sup>124</sup> Therefore, he offered ‘Umar to pray inside the church.

By studying this event, one can see clearly the extent of understanding and tolerance that ‘Umar had. This shows ‘Umar’s firm application of the Qur’ānic injunction ‘*there is no compulsion in religion*’, and the rights of Christians to own their places of worship and the freedom to do whatever they like. It is important to mention that, although this event has not been mentioned in the early Muslim historical or juristic literature, it has been mentioned in some later Muslim historical literature, such as al-‘Ārif.<sup>125</sup> Whatever the case, the authenticity of this narration cannot be disregarded completely especially in the light of the fact that ‘Umar was renowned for such actions. He intended to protect the rights of Christians from being harmed under this

<sup>123</sup> Sa‘īd Ibn al-Batrīq, *Al-Tārīkh al-Majmū‘*, op. cit., Vol. 2, pp. 17-18.

<sup>124</sup> Sahas, *Patriarch Sophronious*, op. cit., p. 66.

<sup>125</sup> Al-‘Ārif, *Al-Mufasal fī Tārīkh Al-Quds*, op. cit., pp. 96-98.

justification. Al-Kīlānī, a Jordanian scholar, quoting Balmer and Bezanit commenting on the refusal of ‘Umar to pray in the church, states:

‘This noble action by ‘Umar to prevent this church being taken by Muslim calls forth our admirations for this man. Despite the civilization we have reached in the 19<sup>th</sup> century, we will never imagine the nobility and the wonderful behaviour Muslims had when they ruled Islamic Jerusalem.’<sup>126</sup>

However, there are some -for example Ranciman- who claim that ‘Umar’s fearful reasons for not praying inside the church became a reality, when the Muslims built a mosque, called ‘Umar’s mosque’, on the outer steps of the church.<sup>127</sup> The researcher believes that it seems that the exponent of this claim has not visited or seen the actual location of the church and the mosque, because the mosque is situated several metres away from the church and a public path separates the two. According to Yūsuf, the mosque is situated southwest of the church, and the distance between ‘Umar mosque and the church is approximately 150 metres.<sup>128</sup> Therefore, it has not been built on the steps of the church as claimed by Ranciman.

#### 4.9 The Keys of the Church of the Holy Sepulchre

One more event that shaped the relations between Muslims and Christians in Aelia (Islamic Jerusalem) and reflects the good treatment shown by Muslims towards Christians is the handing over of the keys of the church by the Patriarch Sophronious to Caliph ‘Umar. It seems that this event happened when ‘Umar visited the church, and refused to perform his prayer inside the church. Sophronious found no one could

<sup>126</sup> Al-Kīlānī, Ibrāhīm Zaīd, *Markaziyyat Al-Quds wa Makānatuhā fī Al-Islām*, Journal of Islamic Jerusalem studies, (Vol. 2. No 2, summer 1999), p. 49

<sup>127</sup> Ranciman, *A History Of The Crusades: 1, op. cit.*, Vol. 1, p. 3.

<sup>128</sup> Yūsuf, *Bait al-Maqdis op. cit.*, p. 60.

be trusted on Christianity's holiest place except for Caliph 'Umar. Father Armando Pierucci stated that the reason that Muslims were entrusted with the keys of the Church of the Holy Sepulchre was due to the animosity between the different Christian sects. Various Christian groups who used the church could not trust one another to let them in when it was their turn.<sup>129</sup> It seemed that Sophronious had guaranteed the safety of this church, and had protected it from any future dispute concerning the right of its control between the various Christian sects. It was well known that Aelia had witnessed a very bloody and destructive history; it had fallen under many occupations and invasions, and each time the invaders had brought destruction and war rather than prosperity and peace. But the case was totally different here for the Muslims had conquered the city without the shedding of any blood. As soon as 'Umar received the keys, he passed them to one of his companions, 'Abd Allah Ibn Nusaibah, who had accompanied him in the surrender of Islamic Jerusalem. Al-'Ārif mentions that the family of Nusaibah one of the well-known families of Jerusalem to this day inherited these keys.<sup>130</sup> The keys remained in the trust of the family of Nusaibah, except during the Crusader period which spanned approximately 90 years. The keys were returned to them immediately after the Salāh al-Dīn's liberation of Islamic Jerusalem.<sup>131</sup>

The researcher believes that this incident illustrates a very important issue, the Christians putting their trust in the Muslim Caliph concerning the holiest place in Christianity. It seems that the reason for this was their understanding that the

<sup>129</sup> Keyser, Jason, *Muslims have kept watch over the doors of Christianity's holiest shrine for centuries*, Jordan Times, August 14, 2002.

<http://www.icnacanada.org/modules.php?op=modload&name=News&file=article&sid=25>,

<sup>130</sup> Al-'Ārif, *Al-Mufasal fī Tārīkh Al-Quds*, op. cit., p. 521.

<sup>131</sup> Ibid., p. 522.

Muslims paid great attention to all places of worship had endured during previous occupations such as the Persian invasion. Therefore, the researcher is inclined to believe the authenticity of this narration on the basis that the family of Nusaibah has inherited the keys,<sup>132</sup> without any objections from any Christians in Islamic Jerusalem or elsewhere throughout this long period of time.

#### **4.10 The market in Aelia (Islamic Jerusalem) and the terms of the peace treaty according to Abū ‘Ubayd**

It is well known that Abū-‘Ubayd reported in his book *al-Amwāl* the agreement between ‘Umar and the Christians of Aelia which took place after negotiations between the inhabitants of the city and one of ‘Umar’s commanders under the name Khālīd Ibn Thābit al-Fahmī. One of the terms of this peace treaty was that everything within the city walls should remain in the hands of the Christians as long as they paid the *Jizyah*. The areas outside the city walls would be in the hands of the conquering Muslims.<sup>133</sup> It is worth mentioning that these accounts have not been supported by any of the early Muslim historians, including al-Ya‘qūbī, al-Wāqidī, al-Tabarī, al-Azdī, Ibn al-A‘them.

The researcher doubts this account for the following reasons. Firstly, Khālīd Ibn Thābit al-Fahmī was not known before this narration and his name did not appear in any other early Muslim historical literature. Secondly, why did ‘Umar send this unknown man to negotiate with the people of Aelia, when the city had been under

<sup>132</sup> Al-Dabbāgh, *Bilādunā Filastīn*, op. cit., Vol. 10, p. 145.

<sup>133</sup> Abū-‘Ubayd, *Kitāb Al-Amwāl*, op. cit., p. 168. See Also Al-Balādhurī, *Futūh al-Buldān*, op. cit., p.189.

Muslim siege for a period of time, and some other well-known companions were there? Thirdly, according to Ibn al-Murajja, after 'Umar entrance to Aelia, he went to view the market. He saw two markets: one in the north and the other in the south. When he enquired as to who these two markets belonged, the answer was, the Christians. Therefore, 'Umar said: 'if the market in the north and south belongs to Christians then the middle belongs to us (Muslims)'.<sup>134</sup>

The researcher argues that if the terms of this peace treaty prevented Muslims from interfering with the Christian way of life and their property in the walled city, how could 'Umar establish a market in the middle of the walled city, especially if this happened only a few days after concluding the peace agreement with the Christians of Aelia? On the other hand, in a normal case, the city market is located inside the city itself, i.e. in the city centre. Even if the market were outside the walls, where was the need for 'Umar to ask about the owners of the market? The area was so large around the walled city that 'Umar could have established a Muslim market anywhere within the large space. Moreover, the term in the peace treaty states that what was 'inside the walls was to be for Christians'. The researcher argues that, if the account of Abū 'Ubayd was valid, then there was no need for 'Umar to question this; because the market no longer belonged to the Christians as it was outside the walls of the city and therefore not included in the peace treaty. To sum up, the researcher is inclined to believe Abū 'Ubayd's account to be invalid.

<sup>134</sup> Ibn al-Murajja, *Fadā'il bayt al-Maqdis*, op. cit., p. 57.

### 4.11 The effect of the first Islamic conquest on the Christians of Aelia (Islamic Jerusalem)

As has been discussed earlier, the juristic principles of treating non-Muslims illustrate that the freedom of religion is one of the important rights of Christians, and should be guaranteed. Goitein, and the Encyclopaedia of Islam, pointed to no new patriarch being appointed in Aelia for some time following Sophronious's death to act as successor to him. They claim that the Islamic conquest threw the Christian community of Aelia into complete disarray,<sup>135</sup> and the Christian community remained a flock without a shepherd.<sup>136</sup> They substantiate this by stating that the aged patriarch Sophronious died shortly after the Islamic conquest and no new patriarch was appointed until 706 AD.<sup>137</sup> This means that Goitein and the Encyclopaedia of Islam are accusing the Muslims, of more or less, of interfering with Christian religious matters. The researcher believes that the Muslims adhered to the earlier mentioned juristic principle and did not interfere in Christian matters.

Jässer, who has a list in his book of the names and the period of each patriarch in Aelia (Islamic Jerusalem) from 451-1106 AD, confirmed the vacancy of the

<sup>135</sup> The Encyclopaedia of Islam, *Al-Kuds*, Prepared by a number of leading orientologists. Edited by C.E. Bosworth E. van Donzel, B. Lewis, and Ch. Pellat, Assisted by F. Th. Dijkema and Mme. S. Nurit, under the patronage of the international union of academies, E.J.Brill, (Leiden 1986 AD), Vol. 5, p.324. (Hereinafter cited as: The Encyclopaedia of Islam, *Al-Kuds*)

<sup>136</sup> Goitein, Shlomo, *Jerusalem in the Arab period (638-1099)*, an article in *Jerusalem Cathedral* (Studies in the History, Archaeology, Geography, and Ethnography of the land of Israel, Edited by Lee I. Levine, Yad Izhak Ben-Zvi Institute (Jerusalem 1982 AD). p. 174, (Hereinafter cited as: Goitein, *Jerusalem*).

<sup>137</sup> *Ibid.*, p. 174.



patriarchal seat in Jerusalem. This record shows that the patriarchal seat was vacant for almost seventy years, until 706 AD John V was enthroned.<sup>138</sup>

It is well known that among the terms of 'Umar's assurance is that Muslims must not interfere with the religious matters of Christians in Islamic Jerusalem. The right of appointing patriarchs belonged only to the Christian themselves. Therefore, a question arises: did the Muslims breach the terms of the 'Umar's assurance? And why had a new patriarch not been appointed for such a long period of time? To answer this question, it should be noted that interference would occur if Muslim authority had forced the Christians to appoint a new patriarch. However, the truth is far from that. The researcher believes that the long vacancy of the patriarch's seat is clear evidence of Muslim non-interference, despite this post is important for Muslims since it represents Christian subjects.

'Athāminah argued that the reason for this long-term vacancy was due to the disagreement between the Christians of Jerusalem, who were Monophysites, with the Byzantine Church in Constantinople. The latter tried to impose their own beliefs on the Monophysites who formed the majority of the Christians in Palestine.<sup>139</sup> The Christians of Jerusalem, after the Islamic conquest, were trying to eliminate the presence of the Byzantines in that area subsequently after expelling them from Islamic Jerusalem. It seems that each group held to their opinions. 'Athāminah added that, when this problem was solved, a new patriarch was appointed. He concluded that the Muslims had no role in hindering the filling of this post.<sup>140</sup>

<sup>138</sup> Jāsser, *Tārīkh al-Quds*, *op. cit.*, pp. 59-62.

<sup>139</sup> 'Athāminah, *Filastīn fī Khamsat*, *op. cit.*, p. 144.

<sup>140</sup> *Ibid.*, p. 144.

Hamilton attributed the vacancy of the patriarch's seat in Jerusalem for almost seventy years as certainly a consequence of the ongoing war between the Muslims and the Byzantine Empire.<sup>141</sup> One can understand nothing from this statement, except that Muslims had no role in this vacancy. It is worth mentioning that, during this period, the church in Jerusalem was supervised by a number of priests who had limited authority, being representatives of the patriarch and not the patriarch himself.<sup>142</sup>

Contrary to what Goitein and the Encyclopaedia of Islam claimed, the researcher believes that when 'Umar conquered Aelia, the status of the Christians underwent an immediate change, and the rights granted were in favour of the Christians. One of the consequences of the Muslim conquest of Aelia was that the non-Chalcedonian churches were able to establish themselves in Islamic Jerusalem on terms of parity with the Orthodox Church. The Armenians appointed a bishop there in 650 AD; the presence of a Jacobite (Syrian Orthodox) bishop was attested from 793 AD.<sup>143</sup>

Karlson argued that despite the fact that Islam arose at a time marked by mercilessness and intolerance, the Muslims did not try to wipe out the followers of other religions, as the Crusaders did later on. He concluded that the presence of the Christians in the area up to this day is clear evidence of the concept of Islamic tolerance.<sup>144</sup>

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<sup>141</sup> Hamilton, *The Christian World*, op. cit., p. 216

<sup>142</sup> Jāsser, *Tārīkh al-Quds*, op. cit., p. 61.

<sup>143</sup> Hamilton, *The Christian World*, op. cit., p. 216

<sup>144</sup> Karlson, *al-Fath al-Islāmī*, op. cit., p.14.

Finally, Christian pilgrimage to the holy place in Aelia (Islamic Jerusalem) was not interrupted as result of the conquest. Tībāwī argues that the flow of Christian pilgrims since the days of St. Helena was not interrupted when Aelia fell under Muslim rule.<sup>145</sup> ‘Athāmnah agrees with Tībāwī, adding that the number of pilgrims decreased as a result of hostile relations between the Muslims and the Byzantine Empire.<sup>146</sup> The researcher believes that the drop in the number of pilgrims was a normal situation as they would be afraid to travel in a war situation. Jāsser quoted Niqūla Ziyādah, a Christian historian saying:

‘The liberation of Jerusalem by the Muslims did not stop the Christian pilgrims from visiting the Holy places in Jerusalem. They encouraged them to come and visit’.<sup>147</sup>

‘Athāmnah went further to claim that building and renovating the churches and the monasteries did not stop because of the conquest, and the Christians continued doing this under Muslim rule.<sup>148</sup> Jāsser quoted Father Yūsuf al-Shamās al-Mukhalisī who was commenting on the Muslim treatment of Christians; al-Mukhalisī stated:

‘Except in paying the *Jizyah*, the Muslim conquerors, have not interfered with anything; they kept everything as it was before. The new situation was that the Muslims gave Christian sects independence with great privileges to their heads and religious leaders. Therefore, it was natural that the Jacobites were closer to the Caliphs than the Malikanis, as the Jacobites were far from any reminder of the Byzantines. This tolerance continued until the end of the seventh century’.<sup>149</sup>

<sup>145</sup> Tībāwī, *Jerusalem*, *op. cit.*, p. 11.

<sup>146</sup> ‘Athāmnah, *Filastīn fī Khamsat*, *op. cit.*, p. 144

<sup>147</sup> Jāsser, *Tārīkh al-Quds*, *op. cit.*, p.184

<sup>148</sup> ‘Athāmnah, *Filastīn fī Khamsat*, *op. cit.*, pp. 144-145.

<sup>149</sup> Jāsser, *Tārīkh al-Quds*, *op. cit.*, pp. 64-65.

#### 4.12 The Pact of 'Umar for the Christians of Aelia (Islamic Jerusalem )

Some historians, such as Ibn al-Murajja, reported that 'Umar gave his assurance to the Christians of Aelia and, in return, took a pact from them, i.e. commitments taken on by the Christians of Jerusalem. This pact was known as 'Umar's pact.<sup>150</sup> Al-'Ārif also referred in his book *al-Mufasal fī Tārīkh al-Quds* to Mujīr al-Dīn al-Hanbalī stating the above report. However, the researcher, after intensive reading of al-Hanbalī's book has found no reference to this issue; there was no mention at all of such a claim in the book. Al-'Ārif does not give any reference or page number and suffices by saying 'Mujīr al-Dīn.<sup>151</sup> The document begins as follows:

'In the name of Allah, the merciful Benefactor! This is a letter addressed by the Christians of Aelia, to the servant of Allah 'Umar Ibn al-Khattāb, Commander of the Faithful. When you came to this country, we asked you for safekeeping for us, our offspring, our goods and our companions in religion. And we made in your presence the following pledge...<sup>152</sup>

<sup>150</sup> Ibn al-Murajja, *Fadā'il bayt al-Maqdis*, op. cit., pp. 55-57.

<sup>151</sup> Al-'Ārif, *Al-Mufasal fī Tārīkh al-Quds*, op. cit., p. 94.

<sup>152</sup> Ibn al-Murajja, *Fadā'il bayt al-Maqdis*, op. cit., pp. 55-57, Al-'Ārif, *Al-Mufasal fī Tārīkh al-Quds*, op. cit., p. 94,

وعن عبد الرحمن بن غنم قال : ' هذا كتاب لعبد الله عمر بن الخطاب أمير المؤمنين من نصارى مدينة ايلياء . إنكم لما قدمتم علينا سألناكم الأمان لأنفسنا وذرائنا وأموالنا وأهل ملتنا . وشرطنا لكم أن لا نحدث في مدينتنا ولا فيما حولها ديراً ولا كنيسة ولا قلاية ولا صومعة راهب . ولا نجس منها ما كان في خطط المسلمين . ولا نمنع كنائسنا أن ينزلها أحد من المسلمين في ليل ولا نهار . وان نوسع أبوابها للمارة وابن السبيل . وان ننزل من مر من المسلمين ثلاث ليال ، نطعمهم ولا نواري في كنائسنا ولا في منازلنا جاسوساً . ولا نكتم غشاً للمسلمين . ولا نعلم أولادنا القرآن ، ولا نظهر شركاً ، ولا ندعو إليه أحداً ، ولا نمنع أحداً من ذوي قرابتنا الدخول في الإسلام إن أراد . وان نوقر المسلمين ، ونقوم لهم من مجالسنا إذا أرادوا الجلوس ، ولا نتشبه بهم في شيء من لباسهم في قلنسوة ولا عمامة ولا نعلين ولا فرق شعر . ولا نتكلم بكلامهم ، ولا نتكنى بكناهم ، ولا نركب السروج ، ولا نتقلد السيوف ، ولا نتخذ شيئاً من السلاح ، ولا نحمله معنا . ولا ننقش على خواتمنا بالعربية . ولا نبيع الخمر . وان نجز مقام رؤوسنا ، وان نلزم زيناً حيثما كنا . وان نشد زناير على أوساطنا . ولا نظهر الصليب على كنائسنا . ولا نظهر صليباننا ولا كتبنا في شيء من طرق المسلمين ولا في أسواقهم . ولا نضرب نواقيسنا في كنائسنا إلا ضرباً خفيفاً .

The claim that 'Umar took a pact from the Christians of Aelia (Islamic Jerusalem) is a very dangerous one. Because the early Muslim and non-Muslim historians and Muslim jurists have not mentioned anything relating to such pact, although they did extensively mention 'Umar's assurance of safety. In a research of the different versions of 'Umar's assurance, one can easily notice and distinguish huge differences between its content of tolerance and the harsh stipulations in the pact of 'Umar, i.e. they contradict each other. The researcher is inclined to believe that those who claim that 'Umar took a pact from the Christians of Aelia in return for the assurance built their assumption on the fact that Islamic Jerusalem was very important to the Muslims, and that Christians should be restricted to very tough stipulations so as to control them and limit their freedom and their authority in their holy places in Islamic Jerusalem. Finally, they would be allowed to live in Islamic Jerusalem; however, they would not have freedom in many issues, discussed previously in the pact of 'Umar to the people of *al-Shām*.

#### 4.13 Conclusion

When 'Umar Ibn Khattāb conquered Aelia, the city had a great significance for the Muslims, not only as the site of the Night Journey and Ascent of the Prophet Muhammad, but as the site of earlier Muslim Prophets from David (*Dāwad*) to Jesus

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ولا نرفع أصواتنا مع موتانا . ولا نتخذ من الرقيق ما جرت عليه سهام المسلمين . ولا نطلع عليهم في منازلهم .. ' .

هذا ما كتبه قائد جيشه . ولما أتى عبد الرحمن بن غنم بالكتاب إلى عمر بن الخطاب زاد فيه ما يأتي :  
' ... ولا نضر أحداً من المسلمين . شرطنا لكم ذلك على أنفسنا وأهل ملتنا وقبلنا عليه الأمان . فإن نحن خالفنا شيئاً من شروطنا لكم وضمناه على أنفسنا فلا ذمة لنا . وقد حل لكم منا ما حل من أهل المعادة والشقاق ' .

(*Issā*). Yet ‘Umar allowed the existing Christian population to stay, to keep their churches, and to freely worship despite his profound disagreement with their religion. He valued the observance of the Islamic requirement of just treatment of the People of the Book more highly than establishing ‘Islamisation’ in the newly conquered city.

Considering the holy character of Aelia (Islamic Jerusalem), Muslims were especially keen to avoid fighting, and the city’s defenders, the Christians, also soon realized that they did not stand a chance against the Muslim forces. This resulted in a peaceful transfer of Aelia (Islamic Jerusalem) to the Muslims. ‘Umar made the historic assurance of safety, requiring all Muslims to forever guarantee Christians freedom of religion, use of their houses of worship, and the right of their followers and pilgrims to visit their holy places. The assurance of ‘Umar was, in effect, the first international guarantee of the protection of religious freedom. It was a wonderful example of the tolerance of the Muslims in administering the countries in which they lived side by side with those of other religions. ‘Umar was a magnanimous conqueror; he ensured that the Church of the Holy Sepulchre was safeguarded for Christian worship and, despite the subsequent influx of Muslims from *Madīnah*, the city retained a largely Christian character.

The assurance signed between the Patriarch Sophronious and ‘Umar Ibn Al-Khattāb at the Islamic conquest of Aelia (Islamic Jerusalem) was a lasting framework for a dignified coexistence between Christians and Muslims.

## CHAPTER FIVE

### Salāh al-Dīn's treatment of Christians prior to the liberation of Islamic Jerusalem.

#### 5.1 Introduction

When studying the relationship and way of treatment of a particular group of people by a particular ruler, it is necessary to briefly study the ruler's background, so that one can know the basis on which the ruler relied in his/her interaction with others. This chapter will be devoted to the study of the Muslims treatment of Christians in Egypt, during the era of Salāh al-Dīn. A brief study of Salāh al-Dīn's background and the rise of Salāh al-Dīn to power in Egypt will be provided, after which his treatment of Christians will be studied. This chapter will provide an answer to the question: did the treatment of Salāh al-Dīn of the Christians in Egypt have any relation to the Crusader (Christian) occupation of Islamic Jerusalem? This chapter will also provide information on the effort Salāh al-Dīn made to unite Egypt and *al-Shām*. And the position of Islamic Jerusalem in the mind of Salāh al-Dīn will be discussed.

Some claim that the reasons behind the launching of the crusade and the waging of war against the Muslims were for the rescue of the Christians from Muslim persecution. This claim should be subject to critical analysis, addressing the situation of the Christians in Islamic Jerusalem directly before the Crusaders, and examining other potential reasons behind the Crusades. This chapter also provides details of the

crusaders' occupation of Islamic Jerusalem, and reports by historians of the massacres the Crusaders committed upon their entrance to Islamic Jerusalem.

## 5.2 The reasons behind the Crusades

Pope Urban II had issued repeated calls to the Christian west to move as a whole towards the east to rescue the Christian Holy places and the tomb of Jesus from the hands of the Muslims. The fruit of his calls was achieved on 27<sup>TH</sup> *Thw al-Qi'dah* 488 AH (27<sup>TH</sup> November 1095 AD);<sup>1</sup> he spoke to a massive crowd gathered near Clermont in France. This speech, as Housley claimed, was one of the most important sermons ever preached; the first Crusade would not have occurred without the Clermont sermon.<sup>2</sup> The Pope's speech has been reported in six different versions.<sup>3</sup> Despite the clear differences in the texts of these six versions, all agree on the Pope's call for the liberation of Jerusalem from the Muslims and the recovery of the Byzantine territories from the Muslims; in addition, the speech contained a large number of accusations against the Muslims and Islam. For example, the Pope accused Muslims of circumcising the Christians.<sup>4</sup> Also, that the Muslims had destroyed the churches of the Christians or appropriated them for the rites of Islam or made them into sheepfolds and stables for cattle.<sup>5</sup> Priests and Levites had been slain in the sanctuaries, Christian virgins forced to choose between prostitution and death

<sup>1</sup> Peters, Edward, *The First Crusade: the Chronicle of Fulcher of Charters and Other Source Materials*, University of Pennsylvania Press, (Philadelphia 1998 AD), 2<sup>ND</sup> Edition, p.2, (Hereinafter cited as: Peters, *The First Crusade*).

<sup>2</sup> Housley, Norman, *The Crusaders*, Tempus Publishing Ltd. (Gloucestershire 2002 AD), p.13.

<sup>3</sup> Peters, *The First Crusade*, *op. cit.*, pp.24-37, 50-53, See also William of Tyre, *A History of Deeds*, *op. cit.*, Vol.1, pp. 89-91.

<sup>4</sup> Peters, *The First Crusade*, *op. cit.*, p.27.

<sup>5</sup> *Ibid.*, p. 27.



by torture etc.<sup>6</sup> The researcher is inclined to believe that all the above accusations have no basis in fact and neither the Muslim nor the non-Muslim history literatures have reported any of these alleged actions. The situation of the Christians in Jerusalem before the Crusades easily refute the claims of the Pope, as will be shown later. As a result of this call, hundreds of thousands of European Christians moved east raising the banner of the Crusades, the cross sewn on their clothes as a symbol of their religious campaign, and killing every Muslims they came across en route. They were forced to rest at some stations, and established a few emirates such as *al-Ruhā* (Eddesa) and *Antākya* (Antioch). However, the aim of this section is not to study the establishment of these emirates, but to study the reasons behind the crusades that lead to this huge mass reaching the walls of Islamic Jerusalem on 492AH (7<sup>th</sup> June 1099 AD) where they laid siege for nearly forty days. The crusaders tightened their siege on Islamic Jerusalem until, finally, Islamic Jerusalem fell into their hands; they massacred Muslims and Jews who were in Islamic Jerusalem at that time. There is disagreement between Muslim and the non-Muslim historians with regard to the number of Muslims who were massacred by the crusaders in Islamic Jerusalem.

Ibn al-Athīr, for example, states that they numbered nearly seventy thousand.<sup>7</sup> Crusader chronicles consider this number to be too high; they estimated it to be no more than twenty thousands.<sup>8</sup> In this section, the researcher will highlight narrations by Christian authors and chronicles that witnessed these massacres, and those who had eyewitness accounts, in addition to some Muslim accounts. The aim is to let the

<sup>6</sup> William of Tyre, *A History of Deeds Done Beyond The Sea*, Translated and annotated by Babcock E.A, and Krey A.C. Octagon Books (New York 1976 AD), Vol.1, p. 91, (Hereinafter cited as: William of Tyre, *A History of Deeds*).

<sup>7</sup> Ibn al-Athīr, *al-Kāmil*, *op. cit.*, Vol. 9, p. 19.

<sup>8</sup> William of Tyre, *A History of Deeds*, *op. cit.*, Vol.1, p. 372.

reader understand the extent of the savagery perpetrated by the crusaders. However, it is first necessary to go back and study the speech delivered by Pope Urban II, and the consequences of and reasons behind this speech.

William of Tyre mentions that a hermit by the name of Peter visited Jerusalem a few years before the crusades and met the patriarch of Jerusalem who was called Simeon.<sup>9</sup> The patriarch told the hermit that the Christians in Jerusalem were being persecuted and were prevented from practising their religion freely. He asked him to convey this message to Europe, and Peter promised that his message would be conveyed to the Pope and the kings of Europe, with the request that they send troops to liberate Jerusalem from the Muslims. Peter fulfilled his promise and took the message to the Pope. Immediately the Pope commenced on a journey around Europe calling for a crusade to liberate Islamic Jerusalem and return it to the hands of the Christians. His calls bore fruit in the Clermont gathering in France, where he gave a long speech, which contained all possible hatred and animosity against the Muslims. He called on the Christians of the west to head east with the glad tidings of complete forgiveness of all sins for whoever would do so.<sup>10</sup>

It seems that there is a need to select certain paragraphs from this speech in order to understand how the Pope managed to unite the hearts of Europeans, who prior to this were fighting each other, and go shoulder to shoulder, to the Holy land. Selected paragraphs are shown below, as quoted by William of Tyre:

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<sup>9</sup> Ibid., Vol. 1, p. 82

<sup>10</sup> Ibid., Vol. 1, pp. 82-93.

'The cradle of our faith, the native land of our Lord, and the mother of salvation, is now forcibly held by a people without God, the son of the Egyptian handmaiden. Upon the captive sons of the free woman he imposes desperate conditions under which he himself, the relations being reversed, should by right have served... For many years past, the wicked race of Saracens, followers of unclean superstitions have oppressed with tyrannical violence the holy places where the feet of our Lord rested. The faithful are made subject and condemned to bondage. Dogs have entered into the holy places, the sanctuary has been profaned, the people, worshippers of God, have been humbled. The chosen race is now enduring undeserved tribulations, the royal priesthood slaves in mud and bricks. The city of God, the chief over provinces, has been rendered tributary. Whose soul is not softened, whose heart does not melt, as these indignities recur to his mind? Who, dearest brethren, can listen to this with dry eyes?

The city of the King of all Kings, which transmitted to others the precepts of an inviolable faith, is forced against her will to be subject to the superstitions of the Gentiles. The church of the Holy Resurrection, the last resting place of the sleeping Lord, endures their rule and is desecrated by the filth of those who have no part in the resurrection, but are destined to burn forever, as straw for everlasting flames. The revered places, consecrated to divine mysteries, places which received the Lord in the flesh as a guest, which saw His signs and felt His benefits, and, in full faith, showed forth in themselves the proofs of all this, have been made sheepfolds and stables for cattle. That most excellent people whom the Lord of Hosts blessed, groans aloud, exhausted beneath the burden of forced services and sordid payments. Its sons, precious pledges of Mother Church, are seized and carried off; they are compelled to serve the uncleanness of the Gentiles, to deny the name of the living God, and to blaspheme with sacrilegious lips. If they shrink back in horror from the impious commands of the infidels, they are slain by the sword like beasts of sacrifice, and thus become companions of the holy martyrs. To the eye of sacrilege, there is no distinction of place and no respect for persons. Priests and Levites are slain in the sanctuaries; virgins are forced to choose between prostitution and death by torture; nor do matrons reap any advantage from their more mature years'.<sup>11</sup>

In addition to the above, the best example is the first call by Pope Urban II eager to unite warring Christians. Describing the cruelties inflicted by Muslims on Christian pilgrims trying to visit Islamic Jerusalem and the defeats suffered by the Byzantine Christians, he called on all of western Christendom to rescue their eastern brethren.

'They should leave off slaying each other and fight instead a righteous war, doing the

<sup>11</sup> William of Tyre, *A History of Deeds*, *op. cit.*, Vol.1, pp. 89-91.

work of God, and God will lead them. For those that died in battle there will be absolution and the remission of sins,'<sup>12</sup> Runciman writes. 'Here they were poor and unhappy; there they will be joyful and prosperous and true friends of God.'<sup>13</sup> The response was tremendous. The Pope Urban's speech was interrupted by cries of '*Deus lo volt*' 'God wills it.' Hundreds crowded up to the Pope begging permission to go on the holy expedition. Soon tens of thousands of commoners and knights headed off for the Holy Land. Across Europe, preachers called the faithful to sew the Cross on their clothes, to mark them out until they had succeeded in their quest.<sup>14</sup>

This call gives a clear picture of the Pope's prime reason for the call to the Christians in the west to move to the east, namely because the persecution of the Christians in Islamic Jerusalem. This text of the speech shows that the Pope was also requesting the Christian west to assist their Christian brothers in the Byzantine Empire, because of their battles with Seljuk, which had resulted in the losing of a huge area of Byzantine land by the Seljuk. But the question that arises here is: did the Byzantine emperor actually ask the Pope to help the Byzantine Empire by sending hundreds of thousands of knights, etc.? It is worth mentioning that the six versions of the Pope's speech do not mention any such appeal. The reason for this, as suggested by Magdalino, is:

'The Latins did not want to admit the 'wretched emperor' had anything but a negative part in their heroic, godly enterprise, and the Byzantines were keen to portray this enterprise as an unsolicited intrusion on imperial space and a masterpiece of imperial damage limitation'.<sup>15</sup>

<sup>12</sup> Runciman, *A History Of The Crusades: I, op. cit.*, Vol. 1, p. 108.

<sup>13</sup> Ibid., Vol.1, p. 108.

<sup>14</sup> Runciman, *A History Of The Crusades, op. cit.*, Vol.1, pp.108-109.

<sup>15</sup> Magdalino, Paul, *The Medieval Empire (780-1204)*, in *The Oxford History of Byzantine*, (ed) Mango C, Oxford University Press, (Oxford 2002 AD), p. 190, (Hereinafter cited as: Magdalino, *The Medieval*).

It should be borne in mind that there were mercenaries in the Byzantine army from Western Europe; however, they came as individuals to make living.<sup>16</sup> The researcher doubts the above conclusion and believes that the Byzantine emperor did not ask for a Crusader campaign. Reference to Anna Comnena, the daughter of the Byzantine emperor (Alexius Comnena), refutes the above claim; she quotes her father, who was surprised by the arrival of the Crusaders, and describes his reaction:

'Before he (Alexius) had enjoyed even a short rest, he heard a report of the approach of innumerable Frankish armies. Now he dreaded their arrival for he knew their irresistible manner of attack, their unstable and mobile character and all the peculiar natural and concomitant characteristics which the Frank retains throughout; and he also knew that they were always agape for money, and seemed to disregard their truces readily for any reason that cropped up. For he had always heard this reported of them, and found it very true. However, he did not lose heart, but prepared himself in every way so that, when the occasion called, he would be ready for battle.'<sup>17</sup>

This quotation clearly indicates that her father was surprised when he knew that a large number of crusaders were marching towards his country. Nothing can be understood from that, except that the emperor did not request help from the Pope or the crusaders. On the contrary, Emperor Alexius did not benefit from the conquests of the crusade, which indeed greatly complicated his attempt to recover lost territory

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<sup>16</sup> Fletcher, Richard, *The Cross and the Crescent, Christianity and Islam from Muhammad to the Reformation*, Allen Lane an imprint of Penguin Books, (England 2003 AD), p. 77, (Hereinafter cited as: Fletcher, *The Cross and the Crescent*).

<sup>17</sup> Anna Comnena: *The Alexiad*, Book X: Second Battle with Heresy: The Cruman War: First Crusade (1094-1097), p. 9, <http://www.fordham.edu/halsall/basis/annacomnena-alexiad10.html>. Seen on 22nd December 2002.

in the east.<sup>18</sup> In addition was the fact that, among the consequences of the Crusades, was the fatal weakening of the Byzantine Empire.<sup>19</sup>

It can be understood from the text of the Pope's speech that there were several other reasons for his call to the Christians to move towards the east; this can be elaborated from the part of the Pope's speech which follows:

'...This land in which you inhabit shut in on all sides by the sea and surrounded by the mountain peaks, is too narrow for your large population; nor does it bound in wealth; and it furnishes scarcely food enough for its cultivators. Hence it is that you murder one another, that you wage war and that you frequently perish by mutual wounding. Let therefore hatred depart from among you, let your quarrels end, let war cease, and let all dissensions and controversies slumber. Enter the road of the Holy Sepulchre...'<sup>20</sup>

The Pope clearly stated that, on one hand, Europe is a limited geographical area and, on the other hand, its population is getting bigger; therefore, a new area was needed to accommodate them. The Pope was trying to stop the continuous war between the European countries, by creating reasonable grounds from which they would be able to forget the hostility and hatred between them. More specifically, he wanted to unite them in what seemed to be a noble goal, which was to rescue the tomb of Jesus from their enemies the Muslims. The researcher is inclined to believe that this reason is a more reasonable and acceptable one for being the motive for the Crusades. As stated above, the condition of the Christians in Islamic Jerusalem was not so bad that it urged the need for hundred of thousands of Crusaders to invade Islamic Jerusalem.

Finally, the Pope was keen in investing the religious factor in this matter and, as a result, he gained a number of benefits. Firstly, stopping the European inter-fighting,

<sup>18</sup> Magdalino, *The Medieval*, op. cit., p. 189

<sup>19</sup> Fletcher, *The Cross and the Crescent*, op. cit., p. 77.

<sup>20</sup> Peters, *The First Crusade*, op. cit., p. 28.

and secondly, occupying the holy lands and placing it under their control. This action would definitely enforce the position of the Pope and the church in the eyes of the western public, at a time when the pope and the priests were under persecution from the German emperor. William of Tyre also mentioned how Pope Gregory VII and the priests were persecuted severely by Emperor Henry as a result of a conflict between the two parties.<sup>21</sup>

### 5.3 The situation of Christians in Islamic Jerusalem prior to arrival of the Crusaders

Since the first Islamic conquest of Islamic Jerusalem, Christians were allowed to perform their religion freely, without disturbance from Muslims, and their houses of worship existed everywhere in the city.<sup>22</sup> They were enjoying their civil rights whole-heartedly and moving around the Islamic State as freely as the Muslims. They also had the right to possess properties such as shops, houses and lands. This freedom opened the doors widely for the Christians to have communication with other Christian countries.<sup>23</sup> Ra'īf Mikhā'īl al-Sā'ātī, a Palestinian priest, commented on the situation of Christians in Islamic Jerusalem prior to the Crusades; he has been quoted by Yūsuf:

'The fact of the matter is that, it is incumbent on us to state that Christian Palestinians lived with their Muslim brethren in peace and harmony. The caliphs would assign high-level positions in government to them. As for the persecution that was meted out to them from

<sup>21</sup> William of Tyre, *A History of Deeds*, op. cit., Vol. I, pp. 89-93.

<sup>22</sup> Yūsuf, Hamd Ahmad 'Abd Allah, *Baīt al-Maqdis min al-'Ahd al-Rāhdī wa Hatā al-Dawla al-Ayyūbiya*, Dā'irat al-Awqāf Wa al-Sh'ūn al-Islāmīya (Jerusalem-Palestine 1402 A.H/1982 A.D), 1<sup>ST</sup> Edition, p. 146, (Hereinafter cited as: Yūsuf, *Baīt al-Maqdis*),

<sup>23</sup> Ameer 'Alī, Syed, *A Short History of the Saracens*, Macmillian and Co. Ltd, (London 1934 AD), p. 321, (Hereinafter cited as: Ameer 'Alī, *A Short History*).

time to time throughout history, this was a result of the extreme measures of some rulers, from whom even the Muslims themselves were not safe. If a certain ruler were a tyrant then it would be a great injustice to consider all rulers as such'.<sup>24</sup>

Michael Foss, a crusades historian, explains that for more than three hundred and fifty years, from the time when the Caliph 'Umar made a treaty with the Patriarch Sophronious until 399 AH (1009 AD), when al-Hākim began his attacks on Christian and Jews, Islamic Jerusalem and the Holy Land were open and welcoming to the west. He adds that even the journey from Europe to Jerusalem was no more dangerous than a journey from Paris to Rome at that time.<sup>25</sup> With regard to employment in the government, the doors were opened for the Christians without any discrimination between them and Muslims, except for periods when Islamic Jerusalem was under the rule of a hard ruler such as al-Hākim al-Fatīmī. The freedom of visiting the Christian Holy City was also granted to the Christians; they came to Islamic Jerusalem on pilgrimage to the holy places from all over the world.<sup>26</sup>

Al-Maqdisī, a geographer who was born and lived in Islamic Jerusalem for the whole of his life, went further in describing the situation of Christians in Islamic Jerusalem, prior to the crusades, by asserting that the Christians and Jews were not under persecution. On the contrary, they had the upper hand:

'Everywhere the Christians and the Jews have the upper hand, and these same Christians are rude and without manners in public places...'<sup>27</sup>

<sup>24</sup> Yūsuf, *Baīt al-Maqdis*, *op. cit.*, p. 147.

<sup>25</sup> Foss, Michael, *People of the first Crusade*, Caxton Editions, (London 2000 AD), p.29, (Hereinafter cited as: Foss, *People of the first Crusade*).

<sup>26</sup> Ameer 'Alī, *A Short History*, *op.cit.*, p. 321.

<sup>27</sup> Al-Maqdisī, Abū 'Abd Allah Muhammad, *Ahsan al-Taqāsīm Fī Ma'rifa al-Aqālīm*, Matba'at Brill (Leiden 1909 AD), 2<sup>ND</sup> Edition, p. 167. See also Al-Muqaddasī, Abū 'Abd Allah Muhammad *The*



In 541 AH (1047 AD), almost fifty years before the crusades, when the Persian traveller, poet, philosopher and propagandist Nāsir-i-Khusraw visited Islamic Jerusalem, he described the religious situation of Christians:

'I saw seated in this church (the Holy Sepulchre) great numbers of priests and monks, reading the Scriptures and saying prayers, both by day and by night'.<sup>28</sup>

ʿĀrif al-ʿĀrif, a Palestinian historian, has quoted Strange:

'We should admit that the Christians were not persecuted and oppressed to the level that the Latin Christians took it as justification to invade the Muslim territory and proclaim the Crusading war'.<sup>29</sup>

And finally, Hamilton stated that:

'The Christians of Jerusalem enjoyed a considerable degree of religious freedom... they were allowed to hold public processions on great feast days...'<sup>30</sup>

Based on the above, it is clear that Christians and Muslims in Islamic Jerusalem lived in harmony, in a climate of co-existence and much less tension than the Europeans wished to believe.<sup>31</sup> Therefore, the researcher concludes that the condition of the local Christians under Muslim rule had certainly not deteriorated to the extent that an armed intervention was necessary to rescue them.

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*Best Divisions For Knowledge of The Regions*, The English Translation of *Ahsan al-Taqāsīm Fī Ma'rīf al-Aqālīm*, Translated by Collins B. Reviewed by Alta'ī M. H. Garnet Publishers (Reading -U.K 2001 AD), 1<sup>ST</sup> Edition, p. 141.

<sup>28</sup> Khusraw, Nāsir-i, *Safarnama*, Translated from Persian into Arabic by al-Khashāb Y. Dār al-Kitāb al-Jadīd, (Beirut 1983), 3<sup>RD</sup> Edition, p. 69.

<sup>29</sup> Al-ʿĀrif, *Al-Mufasal fī Tārīkh al-Quds*, *op. cit.*, p. 148.

<sup>30</sup> Hamilton, *The Christian World*, *op. cit.*, p. 217.

<sup>31</sup> Courbage, Youssef & Fargues, Philippe. *Christians and Jews under Islam*. Translated by Mabro, J. I. B. Tauris publishers, (London, New York 1997 AD), p. 45, (Hereinafter cited as: Courbage & Fargues, *Christians*).

## 5.4 The Crusaders in Islamic Jerusalem

It is time to discuss the Crusaders' occupation of Islamic Jerusalem and their relations with Muslims there, and also discuss the massacre that took place immediately after the fall of Islamic Jerusalem to the hands of the Crusaders.

The Crusaders' forces approached the walls of Islamic Jerusalem in the early days of 492AH (June 1099 AD). The siege on Islamic Jerusalem continued for almost forty days; the Crusaders forces all during that time were severely attacking the walls. They stormed the city on 492AH (15 July 1099) after this continuous assault. An atrocious massacre followed their entrance into the city. The population of the holy city was put to the sword, and the crusaders spent a week massacring Muslims. They killed more than seventy thousand people in the city. The Jews had gathered in their synagogue and the crusaders burned them alive. Islamic Jerusalem was emptied of all its inhabitants.<sup>32</sup>

There is a need to mention some narrations of the massacres that took place upon the entrance of the Crusaders to the city. William of Tyre states:

'It was impossible to look upon the vast numbers of the slain without horror. Everywhere lay bits of human bodies, and the ground was soaked with the blood of the dead. And it was not only the spectacle of the headless bodies and mutilated limbs thrown in all directions that aroused horror in all who saw them. It was still more dreadful to gaze upon the victors themselves, covered in gore from head to foot, a sight that brought terror to everyone they met. It was reported that within the Temple precinct alone 10000 infidels were killed, in addition to those who lay slain everywhere though the city in the streets and squares, the number of whom was estimated as no less.

<sup>32</sup> Hiyari, Mustafa A, *Crusader Jerusalem (1099-1187 AD)*, in 'Asali K. J, (ed), *Jerusalem in History*, Olive Branch Press (New York 1990 AD), pp.137-140, (Hereinafter cited as: Hiyari, *Crusader Jerusalem*)

Soldiers roamed the streets in search of any wretched survivors who might be hiding from death. When found, these were dragged into public view and slaughtered like sheep. Some of our men formed bands and broke into houses where they laid cruel hands on men, women and children, and whoever else was in the household. The victims were either put to the sword, or thrown from some high place to perish miserably on the stones of the street.

The city was found to be full to overflowing with goods of all kinds. All the soldiers, from the least to the greatest, found an abundance of everything. In the houses were large amounts of gold and silver, valuable stones, and fine clothes. There were stores of grain, wine, oil, and plenty of water, for lack of which the army had suffered so much during the siege. Even our most needy pilgrims and brethren were satisfied with affectionate gifts from the more successful. By the second and third day of the occupation, an excellent public market was established for the sale and exchange of goods. Even the common people had all they needed in abundance. So days passed in joyous celebration, as the pilgrims refreshed themselves with the food and rest they so badly needed'.<sup>33</sup>

The horrific extent of the slaughter was quite clear in the Christian sources. As usual, the anonymous author of the *Gesta* who was among the Crusaders that entered Islamic Jerusalem went into the matter with brutal simplicity:

'Our men killed whom they chose and saved whom they chose. They rushed around the city, seizing gold and silver, horses and mules, plundering every kind of goods from the houses. Then they all came rejoicing and weeping for gladness to worship at the Holy Sepulchre of our saviour Jesus, and there they fulfilled their vows to Him. Next morning, stealthily they climbed to the roof of the temple and attacked the Saracens sheltering there, both men and women, slashing their heads from their bodies with their swords. Then our leaders ordered that all the Saracen corpses should be thrown outside the gates on account of their dead bodies. The surviving Saracens dragged their fallen comrades out through the gates and piled them in mounds as big as houses. No one has ever seen or heard of such slaughter of pagans. They were burned on pyres like pyramids, and none save God knows how many there were'.

34

<sup>33</sup> William of Tyre, *A History of Deeds*, *op. cit.*, Vol. 1, p. 372.

<sup>34</sup> The anonymous writer, *Gesta Francorum et aliorum hierosolimitanorum*, *The deeds of the Franks and the other pilgrims to Jerusalem*. Edited by Hill, R. Thomas Nelson and Sons Ltd. (London 1962 AD), pp. 91-93.

This sanctimonious slaughter, the conjunction between plunder and righteousness, between massacre and religious jubilation, was also noted by Fulcher of Chartres, who was not present at the fall of the city but had reports of it very soon afterwards:

‘After this great slaughter, our men went into the houses of the citizens and seized whatever they found. The first to enter the house, whatever his position or rank, had the right to plunder it, and all the Franks acknowledged this. That house or even the palace was his, and he could take whatever he wanted. In this way many poor people became wealthy. They, all the clergy and laity, went to the Sepulchre of the Lord and His most glorious Temple, singing a new canticle to the Lord in voices of exaltation, making offerings and supplications, and joyously visiting the Holy Places as they had so long desired to do’.<sup>35</sup>

Raymond D’Aguilers, a Crusader historian, describes the massacre:

‘Some of the pagans were mercifully beheaded, others pierced by arrows plunged from towers, and yet others, tortured for a long time, were burned to death in searing flames. Piles of heads, hands, and feet lay in the houses and street, and indeed there was a running to and fro of men and knights over the corpses.

Let me tell you that so far these are few and petty details, but it is another story when we come to the Temple of Solomon, the accustomed place for the chanting rites and services. Shall we relate what took place there? If we told you, you would not believe us. So it is sufficient to relate that in the Temple of Solomon and the portico crusaders rode in blood to the knees and bridles of their horses. In my opinion this was poetic justice that the Temple of Solomon should receive the blood of pagans who blasphemed God there for many years’.<sup>36</sup>

The fall of Islamic Jerusalem has received full coverage in Muslim and Arab sources. According to Ibn al-Athīr, the crusaders killed more than seventy thousand people in *al-Aqsā* Mosque, among them a large group of Muslim imams, religious scholars, devout men and ascetics from amongst those who had left their homelands to live in

<sup>35</sup> Fulcher of Chartres, *A History of the Expedition to Jerusalem (1095-1127)*, Translated by Fink H. University of Tennessee Press, Morton and Co. (New York 1967 AD), p. 123.

<sup>36</sup> D’Aguilers, Raymond. *Historia Francorum Qui Ceperunt Iherusalem*. Translated with introduction and notes by Hill, J and Hill, L, The American Philosophical Society Independence Square. (Philadelphia 1968 AD), pp. 127-128.

the vicinity of the holy place.<sup>37</sup> The Coptic historian confirms this number when he states that the Crusaders spent a week in Islamic Jerusalem killing the Muslims; he adds that in *al-Aqsā* Mosque more than seventy thousand Muslims were killed.<sup>38</sup>

Ibn al-Jawzī, in his description of the massacre, states that among the events in this year was the taking of Islamic Jerusalem by the Franks on Friday 13<sup>TH</sup> *Sha'bān* 492 AH (15<sup>th</sup> July 1099 AD). They killed more than 70 000 Muslims there. They took forty-odd silver candelabra from the Dome of the Rock, each worth 360 000 *dirhams*. They took a silver lamp weighing forty Syrian *ratls*. They took twenty-odd gold lamps, innumerable items of clothing and other things.<sup>39</sup>

Ibn al-Qalānisī (died 555 A.H (1160 AD)), a Muslim historian, states:

'The Franks stormed the town and gained possession of it. A number of the townsfolk fled to the sanctuary and a great host were killed. The Jews assembled in the synagogue, and the Franks burned it over their heads. The sanctuary was surrendered to them on guarantee of safety on 22<sup>nd</sup> *Sha'bān* (14<sup>th</sup> July) of this year, and they destroyed the shrines and the tomb of Prophet Ibrāhīm'.<sup>40</sup>

As a result of the above, a new episode began in the history of this Holy City, which extended over eighty-eight years, during which many changes were witnessed by Islamic Jerusalem.<sup>41</sup>

<sup>37</sup> Ibn al-Athīr, *al-Kāmil*, *op. cit.*, Vol. 9, p.19.

<sup>38</sup> Ibn al-'Ibrī, Grīgōrius al-Maltī, *Tarīkh Mukhtaser al-Dūwal*, Dār al-Mashreq, (Beirut 1992 AD), 3<sup>RD</sup> Edition, p.197. (Hereinafter cited as: Ibn al-'Ibrī, *Tarīkh Mukhtaser al-Dūwal*).

<sup>39</sup> Ibn al-Jawzī, *al-Muntazam*, *op. cit.*, Vol. 17, p 47.

<sup>40</sup> Ibn al-Qalānisī, Abū Ya'lā Hamza Ibn Asad, *The Damascus Chronicle of the Crusades*, Extracted and Translated from The Chronicle of Ibn Al-Qalānisī, by Gibb, H.A.R. Luzac and Co. (London 1932 AD), p. 48.

<sup>41</sup> Hiyari, *Crusader Jerusalem*, *op. cit.*, pp. 140-141.

## 5.5 A brief historical background of Salāh al-Dīn.

Salāh al-Dīn, Yūsuf Ibn Ayyūb, well known in western literature as Saladin, was born in 532 AH (1137 AD) in the citadel of *Takrīt*.<sup>42</sup> Salāh al-Dīn was the grandson of Shādhī, who was originally from a village called *Dowaīn* situated in the region at the extreme end of Azerbaijan.<sup>43</sup> According to Yāqūt al-Hamawī (died 626 AH /1229 AD), *Dowaīn* is a small town in the region of Aran in the neighbourhood of Tiflis, the Georgian capital.<sup>44</sup> His family were from the *al-Rawādīya* Kurds.<sup>45</sup> During his stay at *Dowaīn*, Shādhī had a very close friend by the name 'Mujahid al-Dīn Bahrūz' who was a white Greek slave.<sup>46</sup> Bahrūz left the place and his destination was the court of the Saljuk king 'Ghāiyath al-Dīn Muhammad Ibn Malikshāh'. There he sought and found employment as a servant.<sup>47</sup> Because of his services and good

<sup>42</sup> Ibn Shaddād, Bahā' al-Dīn, *al-Nawādir al-Sultāniyya wa al-Mahāsin al-Yūsufiyya*. Dār al-Manār, (Cairo 1421 AH/ 2000 AD), 1<sup>st</sup> Edition, p. 4. (Hereinafter cited as: Ibn Shaddād, *Al-Nawādir*) see also Ibn al-Athīr, *al-Kāmil op. cit.*, Vol. 10, p. 16.

<sup>43</sup> Abū-Shāma, 'Abd al-Rahmān Ibn Ismā'il, *Kitāb al-Rawdataīn fī Akhbār al-Dawlataīn al-Nūrīyā wal al-Salahīya*. Edited and commented on by al-Zāibāq. A. Mū'asaset al-Risalah. (Beirut 1418 A.H /1997 A.D), 1<sup>ST</sup> Edition, Vol.1, p. 403, (Hereinafter cited as: Abū-Shāma, *Kitāb al-Rawdataīn*), Ibn Khalikān, Shams al-Dīn Ahmad Ibn Muhammad, *Wafāt al-A'yān wa Anbā' Abnā' al-Zamān*, Edited by 'Abbās I. Dār Sāder (Beirut), n.d, Vol. 7, p. 139. (Hereinafter cited as: Ibn Khalikān, *Wafāt al-A'yān*) See also Ibn Taghrībardī, Jamāl al-Dīn Yūsuf, *al-Nujūm al-Zāhira fī Mulūk Misr wa al-Qāhira* Commented on and introduced by Shams al-Dīn M. Dār al-Kutub al-'Ilmiya (Beirut 1413 AH/1992 AD), 1<sup>ST</sup> Edition Vol. 6, p. 3, (Hereinafter cited as: Ibn Taghrībardī, *al-Nujūm al-Zāhira*), Al-Maqrīzī, *Kitāb al-Mawā'iz, op. cit.*, Vol. 3, p. 405.

<sup>44</sup> Al-Hamawī, Yaqūt, *Mu'jam al-Buldān*, Edited by al-Jundī F.A, Dār al-Kutub al-'Ilmiya (Beirut) n.d, Vol. 2, p. 558, (Hereinafter cited as: Al-Hamawī, *Mu'jam al-Buldān*)

<sup>45</sup> Ibn al-Athīr, *al-Kāmil, op. cit.*, Vol. 10, p.16. See also Ibn Taghrībardī, *Nujūm al-Zāhira, op.cit.*, Vol .6, p.3. Also see Ibn Khalikān, *Wafāt al-A'yān, op. cit.*, Vol. 7, p. 139, Al-Maqrīzī, *Kitāb al-Mawā'iz, op. cit.*, Vol. 3, p. 405, Abū-Shāma, *Kitāb al-Rawdataīn, op. cit.*, Vol.1, p. 403.

<sup>46</sup> Ibn Taghrībardī, *al-Nujūm al-Zāhira, op. cit.*, Vol. 6, p.4

<sup>47</sup> Ibn Taghrībardī, *al-Nujūm al-Zāhira, op. cit.*, Vol. 6, p.4.

conduct he was offered the chance of a higher position, which finally enabled him to become one of the court staff.

Bahrūz did not forget his old friend Shādhī and summoned him from his village 'to see the success and the prestige he had reached, and to share what Allah had bestowed upon him'.<sup>48</sup> Thus Shādhī joined his old friend. While Shādhī and his family were under the direct care of Mujahid al-Dīn Bahrūz (with his two sons: Najm al-Dīn Abū al-Shukir Ayyūb (Salāh al Dīn's father) and Asad al-Dīn Shīrkūh (Salāh al Dīn's uncle), the Saljūk king decided to appoint Bahrūz governor of Baghdad and his representative there.<sup>49</sup> Once again he did not forget his friend Shādhī and his family, and took them with him to Baghdad. While in Baghdad, the king further entrusted Bahrūz with the citadel of *Takrīt*. Bahrūz found it suitable to appoint Shādhī to the capacity of '*Dazdār*'<sup>50</sup> at the citadel of *Takrīt*,<sup>51</sup> Thus Shādhī moved with his family to that city.

A few years later, and while in *Takrīt*, Shādhī died; his post, which was the post of master of the castle of *Takrīt*, was given to the elder son, Najm al-Dīn Abū al-Shukir Ayyūb, who was assisted in this by his brother Shīrkūh. 'Imād al-Dīn Zankī at this time was ruling *al-Mūsel* and much of its surrounding regions. His attempt to capture Baghdad from Bahrūz did not go according to plan, and he was obliged to retreat to *al-Mūsel* with severe wounds. He passed by *Takrīt* and was received with courtesy

<sup>48</sup> Ibn Khalikān, Shams al-Dīn Ahmad Ibn Muhammad. *Wafīāt al-A'yān wa Anbā' Abnā' al-Zamān*, Edited with explanatory notes by Tawīl Y. and Tawīl M. Manshūrāt Muhammad 'Alī Baydūn. Dār al-Kutub al-'Ilmiya, (Beirut 1419 AH / 1998 A.D), 1<sup>ST</sup> Edition, Vol.1, p. 254 (Hereinafter cited as: Ibn Khalikān, *Wafīāt*)

<sup>49</sup> Ibn Kathīr, *al-Bidāya op. cit.*, Vol. 12, p. 271.

<sup>50</sup> *Dazdār* means the guardian of the citadel.

<sup>51</sup> Abū-Shāma, *Kitāb al-Rawdatain, op. cit.*, Vol.1, p. 404, Ibn Taghrībardi, *al-Nujūm al-Zāhira, op. cit.*, Vol .6, p. 4. Also see Ibn Khalikān, *Wafīāt al-A'yān, op.cit.*, Vol. 7, p. 142.

by Najim al-Din Ayyūb (Salāh al-Din's father).<sup>52</sup> On this occasion Ibn Kathīr states that Zinkī, the enemy of Bahrūz (and the good-hearted friend of Najim al-Din), spent fifteen days under the immediate care of the latter until his wounds were cured.<sup>53</sup> While Abū-Shāma and Ibn Khalikān reported that Najim al-Dīn Ayyūb built ships for him by which his followers were able to cross the river and join him.<sup>54</sup>

Bahrūz, the governor of Baghdad, was outraged when the news reached him of the collaboration that had taken place between Najim al Din Ayyūb and Zinkī, as Bahrūz had always been so generous to them and helped them when they were in need. In fact, he did express his anger though in a very courteous manner. He addressed them saying: 'Your father was a devoted man to me. We were bound together by kindness, and I cannot punish you, but I would like you both to leave *Takrūt*, and find another place to make your living'.<sup>55</sup> This, as stated by Ibn Khalikān, was compounded with an event where Shīrkūh killed a person in *Takrūt* as a result of an argument between the two.<sup>56</sup> Bahrūz was already annoyed at the escape of Zinkī and he was not inclined to overlook the violence of Shīrkūh. Thus, he ordered the family to immediately leave the territory. On the same day that they left, Salāh al-Dīn al-Ayyūbī was born, and the family considered this to be a bad omen.<sup>57</sup> They headed to *al-Mūsel* where

<sup>52</sup> Abū-Shāma, *Kitāb al-Rawdataīn*, *op. cit.*, Vol. 1, p. 404.

<sup>53</sup> Ibn Kathīr, *al-Bidāya*, *op. cit.*, Vol. 12, p. 271

<sup>54</sup> Abū-Shāma, *Kitāb al-Rawdataīn*, *op. cit.*, Vol. 1, p. 404, Ibn Khalikān, *Wafīāt al-A'yān*, *op. cit.*, Vol. 7, p. 143.

<sup>55</sup> Ibn Khalikān, *Wafīāt*, *op. cit.*, Vol. 1, p. 254. See also Ibn Kathīr, *al-Bidāya*, *op. cit.*, Vol. 12, p. 272, Abū-Shāma, *Kitāb al-Rawdataīn*, *op. cit.*, Vol. 1, p. 404

<sup>56</sup> Ibn al-ʿImād, Shihāb al-Dīn Abī al-Falāh, *Shadharāt al-Dhahab fī Akhbār Men Dhahab*, Edited and Commented on by al-Arnāʿūt. A. Dār Ibn Kathīr, (Damascus 1411 AH / 1991 AD), 1<sup>ST</sup> Edition, Vol. 6, p. 375. (Hereinafter cited as: Ibn al-ʿImād, *Shadharāt al-Dhahab*)

<sup>57</sup> Ibn Kathīr, *al-Bidāya*, *op. cit.*, Vol. 12, p. 272, See also Ibn Khalikān, *Wafīāt al-A'yān*, *op. cit.*, Vol. 7, p. 145.



they offered their services to Zinkī, who was the prime cause for their expulsion from *Takrūt*, and no doubt he welcomed them for their services. During their stay there, members of Salāh al-Dīn's family –including his father and uncle— were appointed as prominent government and military leaders under the rule of the Zinkī dynasty.<sup>58</sup>

As a child Salāh al-Dīn vigorously studied and memorized the Qur'ān. This was later supported by long scholarly practice and efforts to become a devout Muslim throughout his life, even when he focused his attention on thoughts of *Jihād*.

At the young age of fourteen Salāh al-Dīn learned the art of fighting well and soon began to stand out among Nūr al-Dīn's (the son and successor of 'Imād al-Dīn Zinkī) forces. In several campaigns between the years of 559 AH (1164 AD) and 564 AH (1169 AD), he made impressive performances, once more move advanced than any of his peers.

In 564 AH (1169 AD). Salāh al-Dīn served with his uncle Shīrkūh as second to the commander –in- chief of the Syrian army. Then with his uncle Shīrkūh he led the Syrian army that went to Egypt on the request of *al-Wazīr* Shāwar. When Shāwar was killed, Shīrkūh was appointed as *wazīr* (Prime Minister) of Egypt. Two months later, Shīrkūh died and Salāh al-Dīn succeeded to his position. Despite his humble character, he held little regard for the Fatimid caliph of Cairo. No sooner had Salāh al-Dīn started reforming Egypt then he turned it into an Ayyūbid powerhouse, returning Egypt to *Sunnī* school of *fiqh* and becoming sole ruler there.<sup>59</sup>

<sup>58</sup> Ibn al-'Imād, *Shadharāt al-Dhahb*, *op. cit.*, Vol. 6, p. 375, Abū-Shāma, *Kitāb al-Rawdatain*, *op. cit.*, Vol.1, p. 405.

<sup>59</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, pp. 26-28.

Even western writers consider Salāh al-Dīn to be a good man. For instance, the most impressive feature of Lane-Poole's book is its enthusiastic and persuasive admiration for the personality of Salāh al-Dīn. 'Gentleness was the dominant note of his character', wrote Lane-Poole about this hero.

'...We search the contemporary descriptions in vain for the common attributes of Kings. Majesty? It is not mentioned, for the respect he inspired sprang from love, which 'casteth out fear.' State? Far from adopting an imposing mien and punctilious forms, no sovereign was ever more genial and easy of approach. He loved to surround himself with clever talkers, and was himself 'delightful to talk to'. He knew all the traditions of the Arabs, the 'Days' of their ancient heroes, the pedigrees of their famous mares. His sympathy and unaffected interest set every one at his ease, and instead of repressing freedom of conversation; he let the talk flow at such a pace that sometimes a man could not hear his own voice. Old-fashioned courtiers regretted the strict propriety of Nūr al-Dīn levees, when each man sat silent, 'as if a bird were perched on his head,' till he was bidden to speak. At the Salāh al-Dīn court all was eager conversation – a most unkingly buzz. Yet there were limits, which no one dared to transgress in the Sultān's presence. He suffered no unseemly talk, nor was there any flippant irreverence or disrespect of persons permitted. He never used or allowed scurrilous language. He kept his own tongue, even in great provocation, under rigid control, and his pen was disciplined: he was never known to write a bitter word to a Muslim.'<sup>60</sup>

## 5.6 Salāh al-Dīn's treatment of Christians in Egypt

Muslim treatment of Christians at Salāh al-Dīn's period, was quite different from that of the time of Caliph 'Umar Ibn al-Khattāb. The researcher believes that this was due to the situation being totally different as a result of being one Islamic State at the time of 'Umar, with a central government in *Madīnah* controlling the whole extended Islamic State and organising the position of its subjects. While, at the time of Salāh al-Dīn more than one Islamic government existed. The first was the caliph in Baghdad, representing the *Sunnīs*, who was so weak and had no control over many

<sup>60</sup> Lane-Poole, Stanley, *Saladin and the fall of the Kingdom of Jerusalem*, Darf publishers limited, (London, 1985 AD), pp. 368-369. (Hereinafter cited as: Lane-Poole, *Saladin*).

rival emirates of *al-Shām*. The second was in Cairo and represented the *Shī'is*. This Caliph also had no power – as the power was in the hands of his Prime Minister. The security situation at both Caliphates was unstable and the crusaders occupied large geographical areas of the Muslim lands. Therefore, there is the need to distinguish between two kind of Christians: the first being the native groups who were living in the Islamic State controlled by Salāh al-Dīn; and the second being the Crusaders, who had invaded the Muslim territory and occupied parts of Islamic land including Islamic Jerusalem.

It is important to note that in this section the discussion, will focus on the period when Salāh al-Dīn was really in power in Egypt, including: Firstly, when he was appointed *Wazīr* (Prime Minister) and secondly, when he became *Sultān* (leader) of the Muslim lands in Egypt and *al-Shām* (natural Syria).

To begin with, some contemporary historians at the time of Salāh al-Dīn reported that the Salāh al-Dīn treatment of the Christians at the start was uneasy, and was deteriorating. Sawirus Ibn al-Muqaffa', the Coptic historian, states: the churches in Egypt suffered the worst possible destruction during the Ayyūbid era in particular and at the beginning of Salāh al-Dīn's reign.<sup>61</sup> On the order of Salāh al-Dīn, according to reports of Sawirus, all wooden crosses that were on the tops of domes and churches in Egypt were removed. Also any church that had a white exterior was to be painted black. The ringing of bells was prohibited in all Egypt, and the Christians were not allowed to pray in public. On the day of Palm Sunday (*Sha'ānīn*)

<sup>61</sup> Sawirus Ibn al-Muqaffa', *Tārīkh Batārikat al-Kanīisah al-Misrīya, al-Ma'rūf bi sīar al-Baī'a al-Muqadasa* Edited by 'Abd al-Masīh Y. and Surīyāl 'A, (Cairo 1959 AD), np. Vol. 3, Part 2. p. 97, (Hereinafter cited as: Sawirus, *Tārīkh Batārikat al-Kanīisah*).

the Christians were not allowed to carry or raise crosses in the streets.<sup>62</sup> Sawirus also states that Salāh al-Dīn at the beginning of his rule laid down harsh social restrictions on the *Dhimmīs*, and ordered the Christians to wear clothes that distinguished them from the Muslims, to wear belts round the waist, not to ride horses or mules only ride donkeys, and not to drink alcohol in public.<sup>63</sup> The researcher is inclined to believe that if these claims were true, then it seems that what Salāh al-Dīn did was clearly an implementation of the so-called 'Umar's pact, because these terms were included in the pact.

Furthermore, Salāh al-Dīn ordered the Armenian patriarch of Cairo to close his patriarchal court in the *al-Zuhrī* area in 564 AH (1169 AD), and to move to the John the Baptist church in the *Zuwayla* neighbourhood.<sup>64</sup> Sawirus comments that, initially, Salāh al-Dīn prevented the Christians from their processions in the streets of the cities and villages of Egypt and their carrying of olive and date branches, as was their custom at the Palm Sunday festival.<sup>65</sup> Salām, an Egyptian historian, confirmed this claim and stated that the Coptic patriarch and priests suffered greatly at the beginning of Salāh al-Dīn's governorship and rule.<sup>66</sup>

<sup>62</sup> Ibid., Vol. 3. Part. 2, p.97.

<sup>63</sup> Ibid., Vol. 3. Part 2, p.97.

<sup>64</sup> Al-Armanī, Abū-Sālih, *The Churches and Monasteries of Egypt and Some Neighbouring Countries*, Edited and translated into English by Evetts B. (Oxford 1895 AD) p.4. (Hereinafter cited as: Al-Armanī, *The Churches and Monasteries*)

<sup>65</sup> Sawirus, *Tārīkh Batārikat al-Kanīisah*, op. cit., Vol. 3, part. 2, pp. 97-98

<sup>66</sup> Salām, Salām Shāfi'ī, *Ahl al-Dhīmma fī Misr fī al-'Asr al-Fātimī al-Thānī Wa al-'Asr al-Ayyoubī* (467-648 A.H/ 1074-1250 A.D), Dār al-Ma'āref, (Egypt 1982 AD), pp. 228-229, (Hereinafter cited as: Salām, *Ahl al-Dhīmma fī Misr*)

When Salāh al-Dīn tightened his grip on the Armenians in 568 AH (1173 AD), the Armenian patriarch departed from Cairo of his own accord towards Islamic Jerusalem on 23<sup>RD</sup> *Rabī' al-Awwal* of the same year.<sup>67</sup> Abū Sālih al-Armanī (died 606 A H) adds; Salāh al-Dīn allowed him to take with him all the religious books he could carry and also all the utensils of the church and gold *Dinārs*. The patriarch appointed a priest to stay behind to lead the prayers in the John the Baptist church in the *Zuwayla* neighbourhood. Abū Sālih adds that Salāh al-Dīn allowed the Armenian Christians to freely carry out their religious duties despite their participation in the conspiracy against him.<sup>68</sup>

The harsh treatment of Salāh al-Dīn did not last long; it should be borne in mind that after the situation had settled and Salāh al-Dīn had confidence in the Christians, he allowed them to participate in his battles as clerks in his army; he brought them closer to him and favoured them. They were even put into much higher positions than the positions they had held before. They rode horses and mules. They wore shoes and undistinguished garments, similar to those of the Muslims.<sup>69</sup> Salāh al-Dīn implemented religious tolerance for which Muslim rulers were renowned. He gave generously to the *Dhimmīs* of Egypt and its surrounding areas, and certain benefits and securities which satisfied them -especially the Coptic patriarch Marcus Ibn Qunbur, who was greatly pleased by the Sultān showering the Copts and their church with these favours.<sup>70</sup> Therefore, between 570 AH (1174 AD) and 575AH (1179 AD) Egypt witnessed the biggest building and renovation projects for the Christian

<sup>67</sup> Al-Armanī, *The Churches and Monasteries*, op. cit., p. 4.

<sup>68</sup> Ibid., p.5.

<sup>69</sup> Sawirus, *Tārīkh Batārikat al-Kanīṣah*, op. cit., Vol. 3, Part. 2, p. 98.

<sup>70</sup> Ibid., Vol. 3, Part 2, pp. 97-98.

churches of Salāh al-Dīn's era; he showed great tolerance towards the churches and monasteries.<sup>71</sup>

Furthermore, the Christians quickly went back to celebrating the Palm Sunday festival and other festivals under the religious tolerance adopted by Salāh al-Dīn in the latter days of his rule and that of his successors.<sup>72</sup> Sawirus comments that the Christians exercised much energy in the building and renovation of their churches as a result of Salāh al-Dīn giving permission to their 'building their monasteries, and renovating their churches, and opening for prayers'.<sup>73</sup>

However, Salāh al-Dīn did not stop there, he went further to the extent of giving great importance to establishing freedom of religious rites in all centres of Christian worship. When the Qādī Shihāb al-Dīn al-Tūsī put some restrictions on the Christians, and closed down two churches in Cairo, the Christians raised the matter with al-Malik al-'Adil, Salāh al-Dīn's brother. Salāh al-Dīn ordered that the churches be opened immediately, and this was carried out on the 10<sup>TH</sup> *Ramadān* 582 AH (1186 AD).<sup>74</sup>

Salāh al-Dīn's tolerant conduct was not limited to the church, it extended to his treatment of the *Dhimmīs* peasants. Sawirus mentions that Coptic farmers, like all other inhabitants, had benefited in Salāh al-Dīn's era from justice and tolerance. The

<sup>71</sup> Salām, *Ahl al-Dhimma fī Misr*, op. cit., p.244.

<sup>72</sup> Sawirus, *Tārīkh Batārikat al-Kanīṣah*, op. cit., Vol. 3, Part. 2, pp. 97-98.

<sup>73</sup> Ibid., Vol. 3, Part 2, p. 98.

<sup>74</sup> Al-Armanī, *The Churches and Monasteries* op. cit., pp. 8-9, See also Al-Nūwairī, Shihabāb al-Dīn Ahmad Ibn 'Abd Al-Wahāb, *Nihāyat al-Irab fī Funūn al-Adab*, (Cairo 1359AH /1940AD), n.p, Vol. 17, p. 10. (Hereinafter cited as: Al-Nūwairī, *Nihāyat al-Irab*).

farmers were happy that their land was safe from confiscation.<sup>75</sup> Sawirus also states that the priests and the religious men had total freedom in supervising and collecting all the proceeds from the farms belonging to the church and the lands endowed to the churches and monasteries, without any interference from Salāh al-Dīn's government.<sup>76</sup>

Despite the fact that Salāh al-Dīn was the ruler of the country, it was not reported that Salāh al-Dīn interfered in the internal affairs of the churches. For example, when the patriarchal chair was vacated as a result of the death of Pope Marcus Ibn Qunbur the 73<sup>RD</sup> patriarch of the Coptic Church in 11<sup>TH</sup> *Dhw al-Hijja* 584 AH (1188 AD), the priests and Coptic representatives came together to elect a successor. They elected Pope Yūnus Ibn Abī Ghālib to be the 74<sup>TH</sup> patriarch of Alexandria.<sup>77</sup> Salāh al-Dīn did not oppose this appointment nor did he attempt to take the great wealth of the new patriarch that the latter later spent on building churches and paying alms to poor Christians.<sup>78</sup> The attitude of Salāh al-Dīn in not interfering with church affairs is similar to the conduct of 'Umar in Jerusalem; he did not get involved in the appointment of a new patriarch in Jerusalem, as shown in the previous chapter.

The idea of the changes of the Salāh al-Dīn policy and treatment towards the *Dhimmīs* during his rule was illustrated by Professor Hillenbrand, who argued that the Copts of Egypt, under the rule of Salāh al-Dīn and his family, enjoyed mixed fortunes. On one occasion they were dismissed from office because of alleged links

<sup>75</sup> Sawirus, *Tārīkh Batārikat al-Kanīisah*, *op. cit.*, Vol. 3, Part 2, p. 96.

<sup>76</sup> *Ibid.*, Vol. 3, Part.1, p. 1.

<sup>77</sup> Al-Maqrīzī, *Kitāb al-Mawā'iz*, *op. cit.*, Vol. 4, p. 415, See also Sawirus, *Tārīkh Batārikat al-Kanīisah*, *op. cit.*, Vol.2, Part 2. p. 199,

<sup>78</sup> Salām, *Ahl al-Dhīmma fī Misr*, *op. cit.*, p.230.

with the Crusaders and, as a result, their churches were destroyed. However, some members of their community were still appointed to high positions. She gives the example of Ibn Sharāfī, who was a Copt, and was appointed private secretary to Salāh al-Dīn. Moreover, al-ʿĀdil, Salāh al-Dīn's brother, appointed Ibn al-Mīqāt in charge of the army bureau (*Dīwān al-Jaīsh*). She concludes that the appointment of Christians to such powerful positions in wartime and in an area that was militarily so sensitive tells its own story.<sup>79</sup>

As an example of the good treatment of the *Dhimmīs* in Egypt, Ibn Jubaīr (died 614 AH /1217 AD), the Andalusian Muslim traveller, visited Egypt in Salāh al Dīn's era and passed through several cities and villages in Egypt, among which was the city of *Akhmīm*. He mentioned that he saw in this city churches populated with *Dhimmīs* from the Copt Christians.<sup>80</sup> Salām commented on Ibn Jubaīr's statement, saying that this was clear evidence that the Christians enjoyed freedom of religion in Salāh al Dīn's period.<sup>81</sup>

The question that arises here is, why did Salāh al-Dīn impose such strict restrictions and treat the *Dhimmīs* in this way? And did his treatment of Christians in Egypt have any relation with the crusaders' (Christians') occupation in Islamic Jerusalem? To answer this, one must refer briefly to the circumstances which surrounded the story of Salāh al-Dīn taking charge of ministry (*al-Wizāra*). Salāh al-Dīn joined the staff of

<sup>79</sup> Hillenbrand, Carol, *The Crusades: Islamic perspective*, Edinburgh University Press Ltd. (Edinburgh 1999 AD), p. 414, (Hereinafter cited as: Hillenbrand, *The Crusades*).

<sup>80</sup> Ibn Jubaīr, Abū al-Husāin Muhammad Ibn Ahmad, *Rihlt Ibn Jubaīr*, Dār Sāder, (Beirut) n.d, p. 36.

<sup>81</sup> Salām, *Ahl al-Dhimma fī Misr*, op. cit., p. 246.



his uncle Shīrkūh in the year 546 AH (1152 AD).<sup>82</sup> Later, he accompanied his uncle when the latter headed Nūr al-Dīn's army to Egypt in 564 AH (1169 AD),<sup>83</sup> where he helped the Fatimid rulers resist the Crusaders. Asad al-Dīn Shīrkūh was appointed as a Fatimid *wazīr* in 564 AH (1169 AD),<sup>84</sup> but died two months later.<sup>85</sup> Salāh al-Dīn was then appointed officially Shīrkūh's successor.<sup>86</sup> Salāh al-Dīn consolidated his power base in 566 AH (1171AD), when he overthrew the Fatimid caliphate, and as a result returned Egypt from *Shī'ah* to the *Sunnī* school of thought, and became the sole ruler there.<sup>87</sup> The Fatimid supporters and *Dhimmīs* did not favour this new situation.

As a result, Salāh al-Dīn faced a number of conspiracies from those who, supported the Fatimids, the Armenian soldiers who were exempted from paying the *Jizyah*,<sup>88</sup> and some publicists and scribes from among the Jews and Christians who had played a significant role in the disturbance of and the conspiracies against Salāh al-Dīn's government.<sup>89</sup> Salāh al-Dīn thus tried to protect himself and his newly established ministry by adopting harsh measures against his opponents. It seems that Salāh al-Dīn followed the same attitude that his uncle Asad al-Dīn Shīrkūh had used against the *Dhimmīs* people, mainly Jews and Christians in Egypt, an attitude that was harsh

<sup>82</sup> Abū-Shāma, *Kitāb al-Rawdatain*, *op. cit.*, Vol. 1, p275,

<sup>83</sup> *Ibid.*, Vol. 2, p. 52.

<sup>84</sup> Ibn Shāddād, *Al-Nawādir*, *op. cit.*, p. 26, Ibn Khalikān, *Wafīāt al-A'yān*, *op. cit.*, Vol. 7, p.151.

<sup>85</sup> Ibn Shāddād, *Al-Nawādir*, *op. cit.*, p.26, Abū-Shāma, *Kitāb al-Rawdatain*, *op. cit.*, Vol. 2, p. 68, Khalikān, *Wafīāt al-A'yān*, *op. cit.*, Vol. 7, p.151

<sup>86</sup> Ibn Shāddād, *Al-Nawādir*, *op. cit.*, p.26, See also Ibn Taghrībardi, *al-Nujūm al-Zāhira*, *op. cit.*, Vol. 6, p. 6, Al-Maqrīzī, *Kitāb al-Mawā'iz*, *op. cit.*, Vol. 3, p. 405.

<sup>87</sup> Ibn Taghrībardi, *al-Nujūm al-Zāhira*, *op. cit.*, Vol. 6, pp. 6-7.

<sup>88</sup> Ibn Wāsil, *Jamāl al-Dīn Mufarij al-Kurūb fī Akhbār Banī Ayyūb*, Edited by al-Shaīyāl J. (Cairo 1960 AD) n.p. Vol.3, p.292. (Hereinafter cited as: Ibn Wāsil, *Mufarij al-Kurūb*)

<sup>89</sup> Al-Maqrīzī, *Kitāb al-Mawā'iz*, *op. cit.*, Vol. 3, p. 4.

and ruthless. Al-Hamawī reported some examples where Shīrkūh forced the Christians to change the colour of their dress, change their hats, wear waist belts and, finally, dismissed the *Dhimmīs* from governmental departments.<sup>90</sup> Al-Maqrīzī mentioned that the Armenians fought Salāh al-Dīn's army forcefully when they were challenging the conspiracy of Mu'taman al-Khilāfah (one of the powerful civilian controllers of the Fatimid's palace)<sup>91</sup> in 564 AH (1169 AD)<sup>92</sup>

Abū-Shāma (died 665 AH /1283 AD) and Ibn Wāsil (died 679 AH /1297AD) have confirmed that the harsh punishments meted out to the conspirators were a result of the participation of some of the Jewish and Christian publicists and scribes in the conspiracies against Salāh al-Dīn in the years 564 AH (1169AD), 568AH (1173 AD), 569 AH (1174 AD), and their secret connection with the Crusaders by writing to them directly or through their spies in Cairo, asking for their help in order to overthrow Salāh al-Dīn.<sup>93</sup>

Salām suggests that this treatment was the result of Salāh al-Dīn imposing certain harsh restrictions on the *Dhimmīs*, because Christians and Jews were very active in supporting the Fatimids and were conspiring to overthrow Salāh al-Dīn and revive the Fatimid rule.<sup>94</sup>

<sup>90</sup> Al-Hamawī, Yāqūt, *Mu'jam al-Udabā'*: *Irshād al-Arīb Ila Ma'rifat al-Adīb*, Edited by al-Tabā' 'U, Mu'asaset al-Ma'āref, (Beirut 1420 AH/ 1999 AD), 1<sup>ST</sup> Edition, Vol. 2, pp. 403-404.

<sup>91</sup> Lyons, M and Jackson D. *Saladin the Politics of the Holy War*, Cambridge University Press, (Cambridge 1982), p 34. (Hereinafter cited as: Lyons, M and Jackson D. *Saladin*)

<sup>92</sup> Al-Maqrīzī, *Kitāb al-Mawā'iz*, *op. cit.*, Vol. 3, p. 5.

<sup>93</sup> Abū-Shāma, *Kitāb al-Rawdatain*, *op. cit.*, Vol. 2, pp. 130-131, Ibn Wāsil, *Mufarij al-Kurūb*, *op. cit.*, Vol. 2, p. 479.

<sup>94</sup> Salām, *Ahl al-Dhīmma fī Misr*, *op. cit.*, pp. 228-229.

The researcher is inclined to believe that the political and security situation was the motive behind the imposing of harsh rules and regulation, similar to those in the so-called pact of 'Umar, at the beginning of Salāh al-Dīn's rule, especially when the Christians were discovered by Salāh al-Dīn as participating in the conspiracy.<sup>95</sup> This was due to the fact that imposing such rules would firstly, commit the Christians to Salāh al-Dīn's rule as his subjects and, secondly, these regulations would control the Christians and restrict their freedom. This would make it easier for Salāh al-Dīn to control them; so, if the *Dhimmīs* breached the regulations, they would be accountable to him. It may be noticed that some scholars went on to argue that Salāh al-Dīn went further when he ordered the Christians to act accordingly and asked them to persist in practising the recommended regulations in the pact of 'Umar. 'Abd al-Mun'im Majed, an Egyptian historian, came to the conclusion that all this happened as a result of the *Dhimmīs*'s conspiracy against Salāh al-Dīn.<sup>96</sup>

However, the turning point came about when Salāh al-Dīn suspended the use of these harsh rules. This happened when the general situation in the area calmed down and the conspiracy was repressed. It would be unreasonable to believe that the abandonment of harsh rules by Salāh al-Dīn was the result of weakness on his part. Salāh al-Dīn, at that period of time, was the sole ruler of Egypt and was supported by the armies that had accompanied his uncle Shīrkūh from *al-Shām* and the Egyptians who were against the Fatimid's Caliphate.

<sup>95</sup> Al-Maqrīzī, *Kitāb al-Mawā'iz*, *op. cit.*, Vol. 3, p. 4, Lyons, M and Jackson D. *Saladin*, *op. cit.*, p.34.

<sup>96</sup> Mājed, 'Abd al-Mun'im, *Žuhūr Khilāfah al-Fātimyyīn wa Suqūtuḥm fī Misr*, (Alexandria 1968 AD), n.p, pp. 487-488.

To sum up, the researcher is inclined to believe that Salāh al-Dīn's actions against the Christians in Egypt was not a result of the Crusaders' occupation of Islamic Jerusalem, but it was a reaction from Salāh al-Dīn toward their conspiracies against him. The relation between the Crusaders and the Egyptian Orthodox Copts was not good; the latter had been banned from the Holy City for almost ninety years since the establishment of the Latin kingdom of Jerusalem because, according to the Crusaders, they were heretical and atheistic.<sup>97</sup>

### 5.7 Islamic Jerusalem in the mind of Salāh al-Dīn

Islamic Jerusalem occupied a very advanced position in the mind of Salāh al-Dīn. In fact, Islamic Jerusalem was a central point in his life.<sup>98</sup> There is no doubt that Salāh al-Dīn put the liberation of Islamic Jerusalem as a top priority, and spent the period between his appointment as *Wazīr* and the recovery of Islamic Jerusalem from the crusaders in preparing and consolidating the Muslim armies and uniting the Muslim territory as well as reminding the Muslims of the importance of this city. In his speech to the Muslims, as Ibn 'Imād al-Dīn al-Asfahānī (Salāh al-Dīn's secretary) mentioned in his book, Salāh al-Dīn said:

'If Allah blesses us by enabling us to drive His enemies out of Islamic Jerusalem, how fortunate and happy we are going to be! For the enemy has controlled Islamic Jerusalem for ninety-one years, during which time Allah did not accept any deeds from us. At the same time, the zeal of the Muslim rulers to deliver it faded away. Time passed, and so did many generations, while the crusaders succeeded in rooting themselves strongly there...'<sup>99</sup>

<sup>97</sup> Sawirus, *Tārīkh Batārikat al-Kanīisah*, op. cit., Vol. 2, part. 2, p. 249.

<sup>98</sup> Glubb, Faris, *Jerusalem: the central point in Saladin's life*, Journal of Islamic Jerusalem studies. Vol 2, No: 2, summer 1999 AD, pp. 49-69, (Hereinafter cited as: Glubb, *Jerusalem*)

<sup>99</sup> 'Imād al-Dīn al-Asfahānī, Abī 'Abd Allah Muhammad, *Kitāb al-Fath al-Qussī fī al-Fath al-Qudsī*. p. 39. n.p, n.d, (Hereinafter cited as: 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*).

Thus, recovering Islamic Jerusalem to the Muslims was the ultimate target of Salāh al-Dīn. Bahā' al-Dīn Ibn Shaddād, Salāh al-Dīn's biographer, stated that he heard Salāh al-Dīn say: 'When Allah enabled me to gain Egypt, I realized that he willed the conquest of the coast (Syrian coast), because he had put the idea in my mind'.<sup>100</sup> This is obvious proof of the importance of Islamic Jerusalem to Salāh al-Dīn. It seems that Salāh al-Dīn considered this matter, as well as ruling Egypt, to be divine message which he was obliged to fulfil. It is obvious that the two ideas, the ruling of Egypt and conquering the Syrian coast including Islamic Jerusalem, were not new to him, as he had grown up with them; such ideas were the common ambitions of all Muslims. Salāh al-Dīn felt, being in this position, that he was responsible before other Muslims for achieving this goal as he had the power to do so.

After the sudden death of Nūr al-Dīn on 11<sup>TH</sup> *Shawwāl* 569 AH (May 1174AD), and his leaving a 12-year-old son, *Al-Malik* Al-Sālih Ismā'īl, with no institutional procedure for succession the political situation was very dangerous; the Muslim State could not be governed by a young child. As a result, a struggle for succession between its most powerful commanders threatened the stability of the region and plunged Syria into a civil war that destroyed all that Nūr al-Dīn had achieved. Salāh al-Dīn received many letters and invitations from a number of commanders, religious men and Muslim thinkers asking him to come to *al-Shām* and try to resolve the situation. 'Imād al-Dīn al-Asfahīnī wrote letters to Sālah al-Dīn informing him of the situation in *al-Shām*, the danger to the Muslim nation that this posed, and the need

<sup>100</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, p. 26.

for him to intervene to prevent the country being fragmented by power struggles.<sup>101</sup>

Five months after the death of Nūr al-Dīn, Salāh al-Dīn set off for *al-Shām*.

According to his biographer Ibn Shaddād:

'When Salāh al-Dīn received confirmation of Nūr al-Dīn's death, and as he was aware that his son was a child unable to shoulder the burdens of kingship and incapable of taking on the defence of the lands against Allah's enemies, he made his preparation to march to Syria, since it was the cornerstone of Muslim territory.... Salāh al-Dīn arrived in Syria demanding that he himself should take on al-Sālih's guardianship, direct his affairs and set straight what had gone awry. Salāh al-Dīn reached Damascus, without having renounced allegiance, and entered the city after a peaceful handover on Tuesday, the last day of *Rabī' al-Thānī* 570 AH (27 November 1174 AD), and he took over the citadel.<sup>102</sup>

Salāh al-Dīn was quite certain that what he had done was an essential step in the way of recovering Islamic Jerusalem. He realised that uniting the Muslim ranks and saving Nūr al-Dīn's kingdom would firstly, allow the Crusaders to be effectively fought against and secondly, ensure that he would not be attacked from the rear.

To conclude, an example that shows the significance of Islamic Jerusalem to Salāh al-Dīn is the care he took regarding the sermon to be preached on the first Friday in the *al-Aqsā* mosque after the liberation of Islamic Jerusalem. He asked and invited the greatest Muslim preachers to draft sermons and submit them to him. He then decided which one would be preached in accordance with the ideas he wanted to reach Muslim minds regarding the significance and importance of this city.<sup>103</sup>

<sup>101</sup> Dajānī-Shikāil, Hādīa. *al-Qādī al-Fādil 'Abd al-Rahmān al-Bīsānī al-'Asqalānī, (526-596 A.H /1131-1199A.D) Dawruhu al-Takhtī fī Dawlet Salāh al-Dīn wa Futūhāteh* (Beirut 1993 AD), pp. 180-183.

<sup>102</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, pp. 49-51.

<sup>103</sup> Glubb, *Jerusalem*, *op. cit.*, pp. 64. For more information about the sermons selected and preached, see 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, pp. 48-50, Also see Abū- Shāma.

## 5.8 Conclusion

It can be concluded that Salāh al-Dīn's personality, education and background played a great role in the way he treated the Christians in Egypt. In addition to being a military man, Salāh al-Dīn was a well-educated religious man; this helped him deal with the Christians as *Dhimmīs* in the right Islamic way. However, Salāh al-Dīn's treatment of the Christians in Egypt at the initial stages of his rule was somewhat harsh. The reason was their participation in the conspiracy against him, and their connection with the Crusaders in Islamic Jerusalem to overthrow his rule. There was no link between Salāh al-Dīn's actions against the Christians in Egypt and the Crusaders' occupation of Islamic Jerusalem, both being Christians. However, Salāh al-Dīn's treatment of the Christians in Egypt had dramatically changed as soon as he had annihilated his enemy from being harsh to being full of tolerance and justice.

The Christians in Islamic Jerusalem, before occupation by the Crusaders, were in a good situation, and were treated as *Dhimmīs* with full guarantee of their rights. This refutes the claims of the Pope, that armed intervention was needed to rescue the Christians of Islamic Jerusalem and save them from the horrible massacres against the inhabitants of Islamic Jerusalem.

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*Kitāb al-Rawdatain, op. cit.*, Vol. 3, p. 379. Al-Hanbalī, Mujīr al-Dīn, *al-Uns Al-Jalīl bī Tārīkh al-Quds wa al-Khalīl*, Edited and Edited by Abū Tabāna A. Maktabat Dandīs (Hebron-Palestine 1420 AH /1999 AD), 1<sup>ST</sup> Edition Vol. 1, pp. 477-483. (Hereinafter cited as: Al-Hanbalī, *al-Uns Al-Jalīl*).

## CHAPTER SIX

### **Muslim treatment of Christians in light of Salāh al-Dīn's liberation of Islamic Jerusalem**

#### **6.1 Introduction**

After his successful effort in reuniting the Muslims under his leadership and the practical measures toward liberating Islamic Jerusalem, Salāh al-Dīn proceeded towards the recovery of Islamic Jerusalem. During his journey down to Islamic Jerusalem he had a number of triumphs over the Crusaders. This chapter aims to provide a better understanding of the steps Salāh al-Dīn took in liberating Islamic Jerusalem. The accounts of the communication between Salāh al-Dīn and the Crusaders will be examined, in addition to the effect of the threats of Balian and the attitude of Salāh al-Dīn towards the Christians in Islamic Jerusalem.

The chapter will deal with Salāh al-Dīn's treatment of Christians and their holy places in Islamic Jerusalem: the native Christians and the Crusaders in Islamic Jerusalem before and after the liberation of Islamic Jerusalem. In this chapter an analytical discussion of the peace negotiations between Salāh al-Dīn and Richard, the Lion-Heart King of England, will be provided as will the outcome of these negotiations.



## 6.2 The steps towards the liberation of Islamic Jerusalem and Muslim treatment of the Christians

The most important and decisive battle was that of *Hittīn*<sup>1</sup> 24<sup>TH</sup> *Rabī' al-Thānī* 583 AH (4<sup>TH</sup> July 1187 AD).<sup>2</sup> At this battle, the Muslim army defeated the Crusaders; a huge number of the latter were either killed or captured. Among those captured were Guy of Lusignan, the king of the Latin kingdom of Jerusalem; his counsellors; his brother Amaury, the constable of the kingdom; the grand masters of the Temples and the Hospitallers, and a large number of the knights of these two military groups. The only surviving leaders, who fled to safety through Muslim lines, were Raymond of Tripoli, Reynald of Sidon, and Balian of Ibelin (referred to in Arabic sources as Balian Ibn Barzān). These men had enjoyed friendly relations with Salāh al-Dīn and were suspected by the Latins of complicity with him.<sup>3</sup>

Salāh al-Dīn camped on the field of the battle. When his tent was pitched, he ordered the prisoners' leaders to be brought before him. This incident received full coverage

<sup>1</sup> *Hittīn* is a village between *Arsūf* and *Qīsarīya*, which contains the tomb of the Prophet *Shu'īb*, Yāqūt al-Hamawī, Vol. 2, p. 315.

<sup>2</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, pp.49-50, 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, pp. 18-19, Abū-Shāma, *Kitāb al-Rawdataīn*, *op. cit.*, Vol.3, pp. 275-288, Abū al-Fidā', *Ismā'īl Ibn 'Alī, Tārīkh Abī al-Fidā' al-Musammā Al-Mukhtasr fī Akhbār al-Basher*, Edited and annotated by Dyūb M, Manshūrāt Muhammad 'Alī Baydūn, Dār al-Kutub al-'Ilmiya, (Beirut 1417 AH/1997 AD), 1<sup>ST</sup> Edition, Vol. p. 155, (Hereinafter cited as: Abū al-Fidā', *Al-Mukhtasr*), Ibn al-Athīr, *al-Kāmil*, *op. cit.*, Vol. 10, pp. 146-148, Al-Hanbalī, *al-Uns Al-Jalīl*, *op. cit.*, Vol. 1, pp. 463-464, Ranciman, *A History of the Crusades*, *op. cit.*, Vol. 2, pp. 457-458, 'Āshūr, Sa'īd 'Abd al-Fattāh, *al-Haraka al-Salībīyya, Safha Musharifa fī Tārīkh al-Jihād al-Islāmī fī al-'usūr al-wstā*, Maktabt al-Anjlū al-Masriya, (Cairo 1986 AD), 4<sup>TH</sup> Edition, Vol. 2, pp.633-636. (Hereinafter cited as: 'Āshūr, *al-Haraka al-Salībīyya*), Lane-Poole, *Saladin*, *op. cit.*, pp. 206-214.

<sup>3</sup> Morgan, M.R, *The chronicle of Ernoul and the continuations of William of Tyre*, Oxford University Press, (London 1973), pp. 41-44

from Muslim and non-Muslim historians, such as Ibn Shaddād,<sup>4</sup> Imād al-Dīn,<sup>5</sup> Abū Shama,<sup>6</sup> Ibn al-‘Adīm,<sup>7</sup> Abū-al-Fidā’,<sup>8</sup> al-Hanbalī<sup>9</sup> and Runciman who stated that:

‘There Salāh al-Dīn received King Guy and his brother the Constable Amalric, Reynald of Châtillon and his stepson Humphrey of Toron, the Grand Master of the Temple, the aged Marquis of Montferrat, the lords of Jebail and Botrun, and many of the lesser barons of the realm. He greeted them graciously. He seated the King next to him and, seeing his thirst, handed him a goblet of rose water, iced with the snows of Hermon. Guy drank from it and handed it on to Reynald who was at his side. By the laws of Arab hospitality to give food or drink to a captive meant that his life was safe; so, Salāh al-Dīn said quickly to the interpreter: ‘Tell the King that he gave the man drink, not I’. He then turned on Reynald whose impious brigandage he could not forgive and reminded him of his crimes, of his treachery, his blasphemy and his greed. When Reynald answered truculently, Salāh al-Dīn himself took a sword and struck off his head. Guy trembled, thinking that his turn would come next. But Salāh al-Dīn reassured him. ‘A king does not kill a king’, he said, ‘but that man’s perfidy and insolence went too far.’ He then gave orders that none of the lay barons was to be harmed but that all were to be treated with courtesy and respect during their captivity. But he would not spare the knights of the military orders, save only the Grand Master of the Temple. A band of fanatical Muslim *Sufīs* had joined his troops. To them he gave the task of slaying his Templar and Hospitaller prisoners. They performed it with relish. When this was done he moved his army away from *Hattin*; and the bodies on the battlefield were left to the jackals and the hyenas’.<sup>10</sup>

The treatment of the Crusaders started from here, when Salāh al-Dīn showed his magnanimity toward King Guy, and his toughness toward Reynald. Ibn Shaddād

<sup>4</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, p.51,

<sup>5</sup> ‘Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op.cit.*, pp. 19-20.

<sup>6</sup> Abū-Shāma, *Kitāb al-Rawdatain*, *op. cit.*, Vol. 3, pp. 288-289.

<sup>7</sup> Ibn al-‘Adīm, Kamāl al-Dīn Abī al-Qāsem, *Zubdat al-Halab min Tārīkh Halab*, Annotated by al-Mansūr K. Dār al-Kutub al-‘Ilmiya, (Beirut 1417 AH 1996 AD), 1<sup>ST</sup> Edition, pp. 408-409. (Hereinafter cited as: Ibn al-‘Adīm, *Zubdat al-Halab*)

<sup>8</sup> Abū-al Fidā’, *Al-Mukhtasr*, *op. cit.* p. 155.

<sup>9</sup> Al-Hanbalī, *al-Uns Al-Jalīl*, *op. cit.*, Vol. 1, pp. 464-465.

<sup>10</sup> Runciman, Steven, *A History Of The Crusades, The Kingdom of Jerusalem and the Frankish East (1100-1187)*, Cambridge University Press (Cambridge 1952 AD), Vol. 2, pp 459-460. (Hereinafter cited as: Runciman, *A History of the Crusades*)

pointed out the justification of Salāh al-Dīn's action by stating that Salāh al-Dīn had vowed to kill Prince Reynald if he got him in his power. The reason behind this was that a caravan from Egypt had passed through his land at *shawbak* during the state of truce. They had halted there under safe conduct, but Prince Reynald treacherously killed them. Salāh al-Dīn heard of this and his religion and zeal encouraged him to swear that if he captured Prince Reynald he would kill him.<sup>11</sup>

After the victory at the battle of *Hittin*, which resulted in an already serious manpower problem amongst the Crusaders who suffered very heavy losses in the battle, Salāh al-Dīn's goal was to move towards Islamic Jerusalem. He first had to conquer the cities of Palestine in order to open up the way to recovering Islamic Jerusalem. Within a period of two months, from July to September, he had recovered all the inland cities and fortresses except for Islamic Jerusalem.<sup>12</sup> He had also recovered all major ports between *'Asqalān* and Jubayl except for *Sūr* (Tyre).<sup>13</sup> As a result, the land route between Palestine and Egypt was cleared for the movement of the Muslim army. Salāh al-Dīn then established his fleet in the Mediterranean between Alexandria and Acre. His fleet went into action immediately on *Jumada al-Thānī*, 583 AH (September 1187AD) and blocked the movement of European ships in the area under its control. It was essential for Salāh al-Dīn to deny

<sup>11</sup> Ibn Shaddad, *Al-Nawādir*, *op. cit.*, p. 51, See also Ibn al-'Adīm, *Zubdat al-Halab*, *op. cit.*, pp. 409-410, also see Al-Dhahabī, Shams al-Dīn Abī 'Abd Allah, *Duwal al-Islām*, Edited by Muzwa H.I. presented by al-Arnā'ūt M. Dār Sader (Beirut 1999 AD), 1<sup>ST</sup> Edition, Vol. 2, p.96, (Hereinafter cited as: Al-Dhahabī, *Duwal al-Islām*), Ibn al-Athīr, *al-Kāmil*, *op. cit.*, Vol 10, p. 142.

<sup>12</sup> These cities included *al-Karak* and *al-Shawbak*, as well as some fortresses in the north, such as Tiberius, Acre, al-Galilee, *Kawkab*, *Nablus*, Haifa, Caesarea, *Saffūriya*, Nazareth and *Safad*.

<sup>13</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, pp. 51-52, See also Ibn al-Athīr, *al-Kāmil*, *op. cit.*, Vol. 10, pp. 145-154.

forces from Europe easy bridge-heads, so he spent the ensuing weeks capturing as many coastal towns from the Crusaders as possible.

Having gained 'Asqalān on 16<sup>TH</sup> Jumada al-Thānī, 583 AH (5<sup>TH</sup> September 1187 AD) and arranged for its administration and settlement, Salāh al-Dīn summoned all his forces, which were scattered throughout the coast, to rejoin him. He then marched to Islamic Jerusalem.<sup>14</sup>

Upon reaching Islamic Jerusalem Salāh al-Dīn enquired about the location of *al-Aqsā* mosque and the shortest route to it,<sup>15</sup> 'which is also the shortest route to Heaven.'<sup>16</sup> As 'Imād al-Dīn reports, he swore to bring back to the sacred shrines their old grandeur and vowed not to leave Islamic Jerusalem until he had recovered the Dome of the Rock, 'on which the Prophet had set foot,' raised his flag on its highest point, and visited it personally.<sup>17</sup>

According to Muslim chronicles, Salāh al-Dīn and his armies approached Islamic Jerusalem from 'Asqalān<sup>18</sup> at the western side of the city on Sunday, 15<sup>TH</sup> Rajab, 583AH (20<sup>TH</sup> September 1187 AD),<sup>19</sup> according to Lane-Pool, Salāh al-Dīn stationed his forces opposite the western wall of Islamic Jerusalem between David's Gate (*Bāb al-Khalīl*) and St. Stephen's Gate (*Bāb al-Āmūd*), where he subsequently started his

<sup>14</sup> Ibn Shaddād, *Al-Nawādir*, *op.cit.*, pp. 52-53, See also 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p.35.

<sup>15</sup> Abū-Shāma, *Kitāb al-Rawdatain*, *op. cit.*, Vol. 3, p. 336.

<sup>16</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p. 40.

<sup>17</sup> *Ibid.*, p. 40

<sup>18</sup> 'Asqalān, a city in Palestine on the coast of the Mediterranean sea between Gaza and Bait Jibrīn

<sup>19</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, p. 53

attack.<sup>20</sup> Muslim historians did not mention the exact location of Muslim army in the first few days of siege.

On 15<sup>TH</sup> *Rajab*, 583 AH ( 20<sup>TH</sup> September 1187AD) the Holy City was under siege. The Crusaders were worn down over two weeks by countless attacks, arrows falling upon them like raindrops. On 21<sup>TH</sup> *Rajab*, 583 AH (26<sup>TH</sup> September, 1187AD), Salāh al-Dīn ordered that the camp be moved quietly, and when the people of Jerusalem saw this they relaxed; but Salāh al-Dīn had not left, he had only spread his camp out over the hills of the region. He then ordered engines to be built, and formed up ten thousand knights and ten thousand archers.<sup>21</sup>

On Friday, 20<sup>TH</sup> *Rajab*, 583 AH (25<sup>TH</sup> September, 1187AD), Salāh al-Dīn set up his mangonels<sup>22</sup> and started his attack on the city. Ibn Shaddād gives a brief account of the battle, stating that Salāh al-Dīn pressed his attack on the city until a hole was made in the wall facing the Jehoshafāt Valley (*Wādī Jahannam*) in a northern village. Realizing the inevitability of their defeat, and that Muslims were about to take over Islamic Jerusalem, the besieged Latins had a meeting and decided to ask for safe conduct, and to surrender Islamic Jerusalem to Salāh al-Dīn. Thus they sent messengers to him to ask for a settlement. An agreement was soon thereafter reached.<sup>23</sup>

Ibn al-Athīr's account of the battle is more detailed. According to him, on the night of 20<sup>TH</sup> *Rajab*, 583AH (25<sup>TH</sup> September, 1187AD). Salāh al-Dīn installed his

<sup>20</sup> Lane-Poole, *Saladin*, *op. cit.*, p. 226.

<sup>21</sup> Ranciman, *A History of the Crusades*, *op. cit.*, Vol. 2, p. 464.

<sup>22</sup> A military engine for throwing stones etc.

<sup>23</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, p. 53.

mangonels, and by morning his machinery was working. The Crusaders also installed their mangonels on the wall and started to fire their catapults. Both sides fought bravely, each considering its struggle to be in defence of its faith. The Crusaders' cavalry left the city daily to engage in combat with Salāh al-Dīn's army, both sustaining casualties.<sup>24</sup>

Ibn al-Athīr adds that in one of these battles a Muslim commander, the Crusaders martyred 'Izz al-Dīn Isā Ibn Mālik. His death so grieved the Muslims that they charged the Crusaders vehemently, forcing them away from their positions and pushing them back into the walls of the city. The Muslims crossed the moat and reached the wall. Sappers prepared<sup>25</sup> to destroy it while archers gave them cover, and mangonels continued bombarding the Crusaders to drive them away from the wall so that the sappers could complete their work. When the wall had been breached, sappers filled it with wood.

Realizing that they were on the verge of perishing, the crusader leaders met in council and agreed to surrender Islamic Jerusalem to Salāh al-Dīn and ask him for safe conduct. Accordingly, they sent a delegation of their leaders to speak with Salāh al-Dīn and ask for peace, but he turned them away, saying that he would deal with them in the way they had dealt with its inhabitants when they conquered it in 492 AH (1099 AD), by killing and taking prisoners.<sup>26</sup>

<sup>24</sup> Ibn al-Athīr, *al-Kāmil*, *op. cit.*, Vol. 10, p. 155

<sup>25</sup> A person who digs a tunnel or trench to conceal assailants approach to a fortified place, the Oxford English reference dictionary, p. 1283.

<sup>26</sup> Ibn al-Athīr, *al-Kāmil*, *op. cit.*, Vol. 10, pp. 155-156, Abū-Shāma, *Kitāb al-Rawdatain*, *op. cit.*, Vol. 3, p. 331.

Hillenbrand states that the propaganda value of the bloodless conquest of Islamic Jerusalem by Salāh al-Dīn counts for much more than the temptation, soon overcome, to exact vengeance. She argues that for Ibn al-Athīr and other Muslim chroniclers it is important to display the subsequent magnanimity of Salāh al-Dīn's conduct not just as a personal characteristic of his but to demonstrate the superiority of Muslim conduct over Christian conduct, of Islamic values over Christian values.<sup>27</sup>

Just before the surrender of Islamic Jerusalem, different chroniclers give different accounts of the communication between Salāh al-Dīn and the rulers of Jerusalem with regard to the negotiations of the surrender of Islamic Jerusalem.

### 6.2.1 The four accounts of communication

According to Runciman, the following day, 2<sup>ND</sup> October, Balian Ibn Barzān (Balian of Ibelin) left Islamic Jerusalem to discuss the future of the city and its population with Salāh al-Dīn.<sup>28</sup> It seems that this was not the first time; it had been preceded by four attempts at communication.

The first attempt was reported by Abū Shāma when he quoted Ibn al-Qādisī by saying that, in one of Salāh al-Dīn's letters to his relatives, he stated that the king of Jerusalem had contacted him during his attack on Tyre on *Jumāda al-Thani*, 583AH (August, 1187AD) to ask for a safe conduct (*Amān*), and that Salāh al-Dīn had responded, 'I will come to you in Islamic Jerusalem.'<sup>29</sup> Ibn al-Qādisī adds that the

<sup>27</sup> Hillenbrand, *The Crusades: op. cit.*, p. 316.

<sup>28</sup> Runciman, *A History of the Crusades, op. cit.*, Vol. 2, p. 464.

<sup>29</sup> Abū-Shāma, *Kitāb al-Rawdatain, op. cit.*, Vol. 3, p.329.

astrologers informed Salāh al-Dīn that the stars indicated he would enter Islamic Jerusalem but that he would lose one eye. To this Salāh al-Dīn replied, 'I would accept becoming blind if I took the city.'<sup>30</sup> However, at that time only the siege of Tyre prevented Salāh al-Dīn from going to Islamic Jerusalem.

The second attempt was reported by Lane-Poole who quoted Ernoul, the Crusaders chronicler who was in Islamic Jerusalem during Salāh al-Dīn's siege of the Latin kingdom. Ernoul provided details that did not appear in the Arabic sources. Ernoul indicated that on the day Muslims took *'Asqalān (Jumāda al-Thānī, 583 AH/ September, 1187 AD)* a delegation of inhabitants from Jerusalem went to see Salāh al-Dīn to ask for a peaceful solution for Islamic Jerusalem. On the day of the meeting there was a sunlar eclipse, which the Crusaders delegates considered a bad omen. Salāh al-Dīn was keen to spare the holy city the misery of a siege because 'that Jerusalem is the house of God, as you also believe, and I will not willingly lay siege to the house of God or put it to the assault'. Salāh al-Dīn offered them generous terms for the city: They were to be allowed to remain in the city temporarily, they were to retain the land within a radius of five leagues around it, and they were to receive the supplies of money and food they needed from Salāh al-Dīn until Pentecost. If the inhabitants of Jerusalem saw a prospect of being rescued by an external help, they should keep the holy city; but if not, they were to surrender Jerusalem and Salāh al-Dīn would conduct them and their possessions safely to Christian lands. The delegation refused this without hesitation and said: 'if God pleases, they would never surrender the city where the Saviour died for them' and

<sup>30</sup> Abū-Shāma, *Kitāb al-Rawdatain*, *op. cit.*, Vol. 3, p. 329.



Salāh al-Dīn then vowed that he would never take Islamic Jerusalem except by force and started his march against the city.<sup>31</sup>

The third was reported by 'Imād al-Dīn who mentioned that, when Salāh al-Dīn was at Tyre, he brought the captured king of Jerusalem -King Guy- and the Grand Master of the Templars before him and promised them freedom if they helped him secure the surrender of other cities.<sup>32</sup> These two did in fact later help him to secure the surrender of 'Asqalān and Gaza.

Finally, Runciman reported the fourth account. He mentioned that Balian of Ibelin, who was with the Frankish refugees at Tyre, contacted Salāh al-Dīn and asked him for a safe conduct to enter Jerusalem in order to rescue Balian's wife Queen Maria, who had retired there with her children from *Nāblus*, and he wished to bring them down to Tyre. Salāh al-Dīn granted him his request on condition that he only spent one night in the city and did not carry any arms with him.<sup>33</sup> By granting him his request, it seemed that Salāh al-Dīn hoped to use Balian as his chief negotiator for the surrender of Islamic Jerusalem. Balian ultimately did negotiate the surrender of the city, but only after he had broken his agreement with Salāh al-Dīn and played a dramatic role in its defence.<sup>34</sup>

When Balian arrived in Jerusalem, Patriarch Heraclius and the officials of the orders insisted that Balian should stay and lead the city's defence. At first Balian resisted, insisting that he would adhere to his commitment to Salāh al-Dīn. But at the

<sup>31</sup> Lane-Poole, *Saladin*, *op. cit.*, pp. 223-225.

<sup>32</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p. 35.

<sup>33</sup> Runciman, *A History of the Crusades*, *op. cit.*, Vol. 2, p. 463.

<sup>34</sup> *Ibid.*, Vol.2, p. 464.

insistence of the patriarch, Balian deeply embarrassed wrote to Salāh al-Dīn to explain the violation of his oath. Runciman mentioned that Salāh al-Dīn was always courteous to an enemy that he respected. He not only forgave Balian but also sent an escort to convey Queen Maria, with her family, down to Tyre. Salāh al-Dīn cried when he saw these children, heirs to vanished grandeur, passing through his camp into exile.<sup>35</sup> Balian finally consented to accept the leadership of the city and Balian began immediately to consolidate the Latin forces and plan the defence of the city.<sup>36</sup>

### 6.2.2 The threats of Balian

It seems that Balian came to the conclusion that the massacre, which had been committed by the Crusaders against the Muslims when they first entered Islamic Jerusalem, would sooner or later be repeated but this time against themselves, i.e. all the Christian people (Crusaders and native Christians) in the city would be killed or captured. More probably, they would be killed. Therefore, Balian found the only solution was to threaten Salāh al-Dīn. Ibn al-Athīr, Abū-Shāma, Ibn Shaddād, Abū al-Fidā', Ibn Kahīr, Ibn al-'Ibrī and many other Muslim and non-Muslim chroniclers unanimously agreed about the content of Balian's threat to Salāh al-Dīn, which was as follows:

'O Sultan,' he said, 'know that we soldiers in this city are in the midst of God knows how many people, who are slackening the fight in the hope of thy grace, believing that thou wilt grant it then as thou hast granted it to the other cities- for they abhor death and desire life. But for ourselves, when we see that death must needs be, by God we will slaughter our sons and our women, we will burn our wealth and our possessions, and leave you neither sequin

<sup>35</sup> Runciman, *A History of the Crusades*, *op. cit.*, Vol. 2, p. 463.

<sup>36</sup> *Ibid.*, Vol. 2. p. 463.

nor smallest amount to loot, nor a man or a woman to enslave; and when we have finished that, we will demolish the Rock and the Mosque *al-Aqsā*, and the other holy places, we will slay the Muslim slaves who are in our hands- there are 5000 such, - and slaughter every beast and mount we have; and then we will go out in a body to you, and will fight you for our lives: not a man of us will fall before he has slain his like; thus shall we die gloriously or conquer like gentlemen.<sup>37</sup>

From the above text it can be noted that, if Salāh al-Dīn did not grant the people of Islamic Jerusalem fair terms of surrender, he would order them to fight to the death and to destroy much of the city before the Muslims could occupy it. Therefore, before Muslims took over the city, Balian and his soldiers would violate the sacredness of the Muslim holy places by destroying the Dome of the Rock, uproot the Rock, and massacre the prisoners of war who were estimated to number in the thousands. The researcher is inclined to believe that the power and effectiveness of this strong speech on that day is not to be doubted.

Geoffrey Regan comments on the situation by saying that Salāh al-Dīn was forced to reconsider his threats.<sup>38</sup> Salāh al-Dīn had sworn to take the city by force and do what the Crusaders did when they took the city. However, Regan argues that this would result in a tragic end to the holy war if he became master of a ruined city, with the holy sites destroyed. Regan questions whether a voluntary surrender by the defenders would violate Salāh al-Dīn's oath. He added that the siege had been bloody enough. Regan then discusses that it was the generous terms that allowed the

<sup>37</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p. 42, See also Ibn al-Athīr, *al-Kamil*, *op. cit.*, Vol. 10, p. 156. See also Abū- Shāma, *Kitāb al-Rawdatain*, *op. cit.*, Vol. 3, p. 340, Ibn Kathīr, *Al-Bidāya*, *op. cit.*, Vol.12, p. 323, Ibn al-'Ibrī, *Tarīkh Mukhtaser al-Dūwal*, *op. cit.*, p. 221, Abū al-Fidā', *al-Mukhtasr*, *op. cit.*, Vol. 2, pp. 156-157, Al-Hanbalī, *al-Uns Al-Jalīl*, *op. cit.*, Vol. 1, p. 473.

<sup>38</sup> Regan, Geoffrey, *Saladin and the fall of Jerusalem*, Croom Helm, (Kent 1987 AD), pp.150-151. (Hereinafter cited as: Regan, *Saladin*)

surrender of the other cities rather than violence. Moreover, taking Islamic Jerusalem by force would take longer and would affect the ability of his forces. He concluded that Salāh al-Dīn understood that generosity was his most potent weapon.<sup>39</sup>

Salāh al-Dīn discussed the issue with his commanders, and firstly he was told that the right approach was to cause them humiliation by taking them all, with their families as prisoners of war. After lengthy negotiation and discussion,<sup>40</sup> they finally agreed with Balian on the terms of surrender. The city was to surrender unconditionally, but the Crusaders were granted safe conduct to leave the city, provided that they pay a fixed ransom at the following levels: ten *dinārs* for a man, five for a woman, and two for a child.<sup>41</sup> Seven thousand of the poor would be freed for a lump sum of thirty thousand *dinārs*. Balian agreed.<sup>42</sup> Salāh al-Dīn saw this as an excellent opportunity to capture the city without further bloodshed. All those who paid their ransom within forty days were allowed to leave the city, while those who could not pay the ransom themselves were to be enslaved. The Crusaders were allowed to take with them any movable property. However, they were encouraged to sell as much as possible to the Muslims, to the merchants in Salāh al-Dīn's army, as well as to native Christians,<sup>43</sup> in order to help them raise their own ransoms. 'Imād al-Dīn states that Balian promised to pay 30,000 *dinārs* on behalf of the poor to be freed. 'Imād al-Dīn adds

<sup>39</sup> Ibid., 151.

<sup>40</sup> Ibn al-Athīr, *al-Kāmil*, op. cit., Vol. 10, p. 156,

<sup>41</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, op. cit., p. 43, Ibn al-Athīr, *al-Kāmil* op. cit., Vol. 10, p. 156, Ibn Shaddād, *Al-Nawādir*, op. cit., p. 53. Ibn Kathīr, *al-Bidāya* op. cit., Vol. 12, p. 323, Ibn al-'Adīm, *Zubdat al-Halab*, op. cit., p. 411, Abū al-Fidā', *al-Mukhtasr*, op. cit., Vol. 2, p. 157, Ibn al-'Ibrī, *Tarīkh Mukhtaser al-Dūwal*, op. cit., p. 221.

<sup>42</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, op. cit., p. 43, See also Ibn al-Athīr, *al-Kāmil*, op. cit., Vol. 10, p. 156, Al-Hanbalī, *al-Uns Al-Jalīl*, op. cit., Vol. 1, p. 473.

<sup>43</sup> Ibn al-Athīr, *al-Kāmil*, op. cit., Vol. 10, p. 158.

that the offer was accepted, and Balian fulfilled his promise and paid the agreed amount.<sup>44</sup>

Islamic Jerusalem was surrendered on Friday, 27<sup>TH</sup> *Rajab*, 583 AH (2<sup>ND</sup> October 1187 AD) and, according to 'Imād al-Dīn al-Asfahānī, Islamic Jerusalem had more than a hundred thousand people including Christian men, women and children.<sup>45</sup> The 27<sup>TH</sup> *Rajab* was the very same day that the Prophet Muhammad had been taken from Mecca to Islamic Jerusalem in one night, the day of the Ascent, and eve of *al-Mi'rāj* that is written about in the Qur'ān.<sup>46</sup> Salāh al-Dīn entered Islamic Jerusalem and freed it from 88 years of Crusader occupation. Ibn Shaddād states how Allah facilitated this remarkable coincidence with the restoration to Muslim hands on the anniversary of the Night Journey and Ascent of the Prophet Muhammad.<sup>47</sup> Ibn Shaddād continues that a vast majority of people from all over the Muslim world came to Islamic Jerusalem after hearing of the conquest of the coastal lands and hoping for the capture of Islamic Jerusalem. Every well-known person from Egypt and Syria witnessed the liberation, so that when Salāh al-Dīn entered the city he was surrounded by scholars, jurists, *Sūfīs*, and poets, as well as by crowds of civilians and members of the military. On the day of the conquest the huge cross, which had been put over the Dome of the Rock, was pulled down. When Salāh al-Dīn triumphantly

<sup>44</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p. 43, Ibn al-'Adīm, *Zubdat al-Halab*, *op. cit.*, pp. 411-412.

<sup>45</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p. 43.

<sup>46</sup> Qur'ān. *Al-Isrā'*: 17:1.

<sup>47</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, pp.52-54.

entered Islamic Jerusalem, he immediately released the Muslim prisoner who, according to Ibn Shaddād, numbered close to 3,000.<sup>48</sup>

The Patriarch Heraclius and his priests each paid their ten *dinārs*, then left the city laden with gold and silver jewellery, relics by the cartload, and other artefacts from the Church of the Holy Sepulchre. According to 'Imād al-Dīn, the Crusaders stripped the ornaments from their churches, carrying with them vases of gold and silver and silk- and gold-embroidered curtains as well as church treasures.<sup>49</sup>

Salāh al-Dīn's brother Al-Malik al-'Ādil was so moved by the scene of the above that he asked for a thousand captives. Salāh al-Dīn granted his request, and al-'Ādil immediately set them free. Salāh al-Dīn in his turn set free all the aged.<sup>50</sup> An example of Salāh al-Dīn's magnanimity is that he sent his guard to proclaim throughout the streets of Islamic Jerusalem that all old people who could not pay would be allowed to leave the city. They came forth from the Postern of St. Lazar, and their departure lasted from the rising of the sun until night fell.<sup>51</sup> 'Imad al-Dīn, Ibn al-Athīr and Abū-Shāma were among the historians who reported the good conduct of Salāh al-Dīn towards many noble women of Islamic Jerusalem, allowing them to leave without ransom. For example, a Byzantine queen, who had led a monastic life in Islamic Jerusalem, was not only allowed to leave without ransom, but was allowed to take with her all her belongings and whatever else she wanted to

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<sup>48</sup> Ibid., pp. 52-54.

<sup>49</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, op. cit., p. 47.

<sup>50</sup> Runciman, *A History of the Crusades*, op. cit., Vol. 2, p. 466, Lane-Poole, *Saladin*, op. cit., pp. 231-232.

<sup>51</sup> Lane-Poole, *Saladin*, op. cit., p. 232.

take.<sup>52</sup> Another example was the wife of the captured King Guy, who lived in Islamic Jerusalem, was allowed to leave the city unhindered with her retinue and associates. Salāh al-Dīn even granted her safe conduct to visit her captive husband in Nablus.<sup>53</sup> Some of Salāh al-Dīn's commanders (for example, the ruler of *al-Bīra*) asked for the freedom of 500 Armenians, as they were from his country. Muẓaffar al-Dīn Ibn 'Alī Kuchuk requested the release of 1,000 claiming that they had come from *al-Ruhā*. Salāh al-Dīn confirmed and granted his request.<sup>54</sup>

Ranciman reported that some of the Crusader ladies, who ransomed themselves, came in tears asking Salāh al-Dīn what was to happen to them, as their husbands or fathers had been slain or made captive. He replied by promising to free their living husbands from captivity, and to the widows and orphans he gave money and gifts from his own treasury according to their need.<sup>55</sup> Ranciman commented on this incident by saying that this was a strange contrast to the deeds of the crusader conquerors of the first crusade.

In order to control the departing population, Salāh al-Dīn ordered that all the gates of Islamic Jerusalem be temporarily closed. At each gate a commander was appointed to control the movement of the Crusaders and to ensure that only those who had paid

<sup>52</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op cit.*, p. 43, Abū- Shāma, *Kitāb al-Rawddatain*, *op. cit.*, Vol. 3, p.343, Ibn al-Athīr, *al-Kāmil*, *op. cit.*, Vol. 10, p. 157, Al-Hanbalī, *al-Uns Al-Jalīl* *op. cit.*, Vol. 1, p. 474.

<sup>53</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op cit.*, p. 43, Abū- Shāma, *Kitāb al-Rawddatain*, *op. cit.*, Vol. 3, p.343, Ibn al-Athīr, *al-Kāmil*, *op. cit.*, Vol. 10, p. 157, Al-Hanbalī, *al-Uns Al-Jalīl* *op. cit.*, Vol. 1, p. 474.

<sup>54</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p. 44. See also Lyons, M and Jackson D. *Saladin, the Politics of the Holy War*, Cambridge University Press, (Cambridge 1982 AD), p. 257. (Hereinafter cited as: Lyons, M and Jackson D, *Saladin*).

<sup>55</sup> Ranciman, *A History of the Crusades*, *op. cit.*, Vol. 2, p. 466.

a ransom could leave. Persons were employed inside the city to take a census.<sup>56</sup> 'Imād al- Dīn says that Egyptian and Syrian officers were appointed to collect the payments and to give the departing Latins receipts that were to be submitted at the gate before leaving the city.<sup>57</sup> The Grand Masters of the Templars and Hospitallers were approached to donate money for the release of poor Crusaders, but when they resisted, a riot almost erupted and they were forced to contribute to the ransoms.<sup>58</sup>

As the Crusaders were leaving, Salāh al-Dīn assigned to them officers whose job was to ensure their safe arrival in territories held by the Christians.<sup>59</sup> Regan, in his book, quoted one chronicler, without specifying his name, who gave Salāh al-Dīn's officers credit for their humane treatment of the refugees. These officers:

' Who could not endure the suffering of the refugees, ordered their squires to dismount and set aged Christians upon their steeds. Some of them even carried Christian children in their arms.'<sup>60</sup>

After the exodus of the entire number of Crusaders who were able to leave, 15,000 individual Crusaders remained in the city and were enslaved, as they could not pay the ransom. According to 'Imād al- Dīn, 7,000 were men and 8,000 were women and children. 'Imād al- Dīn was amazed at the amount of treasure that had been carried away by the departing Latins. He reported to Salāh al-Dīn that these treasures could be valued at 200,000 *dinārs*. He reminded him that his agreement with the Latins was for safe conduct for themselves and their own property, but not for that of the

<sup>56</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p. 43, See also Al-Hanbalī, *al-Uns Al-Jalīl op. cit.*, Vol. 1, p. 473.

<sup>57</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p. 44.

<sup>58</sup> Ranciman, *A History of the Crusades*, *op. cit.*, Vol. 2, p. 466.

<sup>59</sup> Ibn Shaddād *Al-Nawādir op. cit.*, p. 53, See also Regan, *Saladin*, *op. cit.*, p. 153.

<sup>60</sup> Regan, *Saladin*, *op. cit.*, p. 153.



churches, and he counselled that such treasures not be left in Crusader hands. But Salāh al-Dīn rejected his proposal:

'If we interpret the treaty [now] against their interest, they will accuse us of treachery. Let us deal with them according to the wording of the treaty so they may not accuse the believers of breaking the covenant. Instead, they will talk of the favours that we have bestowed upon them'.<sup>61</sup>

In the words of Esposito:<sup>62</sup>

'The Muslim army was as magnanimous in victory as it had been tenacious in battle. Civilians were spared; churches and shrines were generally left untouched... Salāh al-Dīn was faithful to his word and compassionate toward non-combatants'.<sup>63</sup>

To conclude, Salāh al-Dīn's magnanimity towards the Christians (Crusaders and native Christians) contrasts sharply with the attitude of the victorious Crusaders in 492AH (1099AD). The taking of Islamic Jerusalem in itself was enough to show Salāh al-Dīn to be a chivalric and fair-minded man. Salāh al-Dīn's behaviour was recognized by both the Muslim and Christian world as being of great generosity. He showed remarkable magnanimity and compassion to his enemies. The behaviour of the Muslims in Islamic Jerusalem was impeccable.

Clearly Salāh al-Dīn's treatment of the Christians reflected the true Islamic vision for the treatment of non-Muslims, established by the Qur'ānic verse, which translates as follows:

<sup>61</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, op. cit., p. 47. See also Ibn al-Athīr, *al-Kāmil*, op. cit., Vol. 10, p.157, Abū- Shāma, *Kitāb al-Rawddatain*, op. cit., Vol. 3, p. 401.

<sup>62</sup> John L. Esposito is Professor of Religion and International Affairs, Professor of Islamic Studies, and Director of the Centre for Muslim-Christian Understanding at Georgetown University; and he has served as President of the Middle East Studies Association.

<sup>63</sup> Esposito, John. L. *Islam: The Straight Path*, Oxford University Press (Oxford 1998 AD), 3<sup>RD</sup> Edition, p. 59.

‘Allah forbids you not, with regard to those who fight you not for (your) Faith nor drive you out of your homes, from dealing kindly and justly with them: for Allah loveth those who are just’<sup>64</sup>

The instructions of the Islamic teaching, which Salāh al-Dīn was aware of, stopped him from committing barbaric actions similar to those carried out by the Crusaders; briefly, the concept of ‘forgiveness with capability’ (*al-‘Afū ‘ind al-Maqdirah*) was in Salāh al-Dīn’s mind at that time.

### 6.3 Salāh al-Dīn and the Christian holy places in Islamic Jerusalem

The first action that Salāh al-Dīn took towards the Church of the Holy Sepulchre, the holiest place for Christians in the world, was that he ordered the church to be closed for three days.<sup>65</sup> Al-‘Ārif suggests that the reason for this was to allow the situation to calm down and for life to return to the city.<sup>66</sup> It also seems that the closure was intended to give Salāh al-Dīn and the Muslims enough time to discuss the future of this church, especially after a long and tiring war. Some of his advisers wanted him to destroy the church, to end the Christian interest in Islamic Jerusalem; as a result Christians would stop targeting it for visits and pilgrimage. ‘Imād al-Dīn states that:

‘Salāh al-Dīn discussed with his people the issue of the church of the Holy Sepulchre. Amongst them were those who advised that its structures should be demolished, its traces should be blotted out, the way to visiting it should be blinded, its status should be removed,

<sup>64</sup> Qur’ān. *Al-Mumtahana*. 60: 8.

لَا يَنْهَاكُمُ اللَّهُ عَنِ الَّذِينَ لَمْ يُقَاتِلُوكُمْ فِي الدِّينِ وَلَمْ يُخْرِجُوكُمْ مِنْ دِيَارِكُمْ أَنْ تَبَرُّوهُمْ وَتُقْسِطُوا إِلَيْهِمْ إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ

<sup>65</sup> ‘Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, op. cit., p. 35. Abū- Shāma, *Kitāb al-Rawddatain* op. cit., Vol. 3, p.402, See also Ranciman, *A History Of The Crusades*, op. cit., Vol. 2, p. 468.

<sup>66</sup> Al-‘Ārif, *Al-Mufasal fī Tārīkh Al-Quds*, op. cit., p. 176.

its candelabras should be extinguished, its gospels should be destroyed, its seductions should be removed and its pronouncements should be exposed as lies... Those who came to visit it came to worship at the location of the cross and the sepulchre rather than at the building itself. Christians would never stop making pilgrimages to this location, even if it had been totally uprooted.<sup>67</sup>

However, the majority rejected the idea and argued that it was the site not the building that mattered; Christians would still make pilgrimages there due to the spirit and sanctity of the place. Moreover, they argued that when Caliph 'Umar Ibn al-Khattāb conquered the city he had taken no such action against the holy places, but had confirmed the right of Christians to the church and had not given orders to destroy it.<sup>68</sup> So why should they do it now? Salāh al-Dīn adopted 'Umar's attitude towards the holy places and he was persuaded by the majority's opinion. After three days of closure, Salāh al-Dīn issued an order for the church to be re-opened and granted the Christians the freedom of worship inside it. However, Frankish pilgrims were only admitted on payment of fee.<sup>69</sup>

Salāh al-Dīn also succeeded in regaining Islamic Jerusalem for Islam by returning the Muslim holy places and introducing some structural changes to the city of Islamic Jerusalem. The golden cross that had dominated the Dome of the Rock was taken down<sup>70</sup> and *al-Aqsā* Mosque was cleared of Christian furnishings.<sup>71</sup> The

<sup>67</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, pp. 53-54.

<sup>68</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p. 54, Abū-Shāma, *Kitāb al-Rawddataīn* *op. cit.*, Vol.3, p. 402, Ibn Kathīr., *al-Bidāya*, *op. cit.*, Vol. 12, p. 327, Al-Hanbalī, *al-Uns Al-Jalīl* *op. cit.*, Vol. 1, p. 485.

<sup>69</sup> Al-Maqrīzī, Abī al-'Abāss Ahmad Ibn 'Alī, *al-Sulūk Li Ma'rifati Diwal al-Mulūk*, Edited by Attā M. Manshūrāt Muhammad 'Alī Baydūn., Dār al-Kutub al-'Ilmīya, (Beirut 1418 AH 1997 AD), 1<sup>ST</sup> Edition, Vol. 1, pp. 210-211.

<sup>70</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, p.53.

<sup>71</sup> Abū-Shāma, *Kitāb al-Rawddataīn*, *op. cit.*, Vol. 3, p. 377.

Mosque was fitted with beautiful carpets and the walls were illuminated with texts from the Qur'ān and rich candelabra were hung from the ceiling.<sup>72</sup> Moreover, Salāh al-Dīn installed the *Minbar* (carved pulpit) in *al-Aqsā* Mosque. This *Minbar*, as Abū-shāma mentioned, was prepared during Nūr al-Dīn's life to be taken with him to Islamic Jerusalem should it be liberated during his life-time.<sup>73</sup> With regard to some of the Christian places, Salāh al-Dīn, after discussion with Muslim scholars ('*Ulama*'), housed new religious institutions in buildings previously occupied and used by Christians. It was argued that these Christian places were Muslim places prior to the Crusades.<sup>74</sup> For example, *al-Madrasa al-Salāhīya*, a school for teaching *Shāfi'ī fiqh* was re-installed in the Church of St. Anne. *Al-Khānqāh al-Salāhīya*, a monastery (*Ribāt*) for *Sūfīs*, was placed in the former residence of the Patriarch of Jerusalem, adjacent to the Church of the Holy Sepulchre.<sup>75</sup> Also, a hospital, *al-Bīmāristān al-Salāhī*, was established in a church in the Tanners Quarter (*Hayy al-Dabbāgha*), close to the Church of the Holy Sepulchre. Rich endowment was established in order to service the hospital that apparently also functioned as a teaching centre for medicine.<sup>76</sup>

<sup>72</sup> Ibid., Vol. 3, p.377.

<sup>73</sup> Abū-Shāma, *Kitāb al-Rawdatain*, op. cit., Vol. 3, pp.392-393, 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, op. cit., p. 48, Al-Hanbalī, *al-Uns Al-Jalīl*, op. cit., Vol. 1, pp. 475-476.

<sup>74</sup> According to the Ayyūbid historian Abū al-Fidā', (died 732 AH), St. Anne was a church before Islam and became a school during the Islamic period before 1099 AD. *Al-Mukhtasr* op. cit., Vol. 2, pp. 169-170.

<sup>75</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, op. cit., p.53, Al-Hanbalī, *al-Uns Al-Jalīl* op. cit., Vol. 1, p. 485

<sup>76</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, op. cit., p.318, Al-Hanbalī, *al-Uns Al-Jalīl*, op.cit., Vol. 1, p. 537.

## 6.4 Salāh al-Dīn and the native Christians

Before discussing Salāh al-Dīn's treatment of the native Christians in Islamic Jerusalem, it is important to state that Salāh al-Dīn distinguished between two types of Christians: on the one hand, the Crusaders who were the invaders and behind the horrific massacres in Islamic Jerusalem, and on the other hand, the native Christians who were either Arabs or followers of the Greek Orthodox church. According to 'Imād al-Dīn, after the recovery of Islamic Jerusalem, the native Christians requested permission to stay in Islamic Jerusalem and Salāh al-Dīn granted them their request on one condition. The condition was that, after paying their ransom, they should pay *Jizyah*, be his subjects and be treated as *Dhimmīs*. However, the poorer classes, who did not have money, were exempted from paying the *Jizyah*.<sup>77</sup> Salāh al-Dīn, on the other hand, ordered the Crusader (Catholic) Christians to leave Jerusalem. The Orthodox Christians and the Jacobites, who were not Crusaders, were allowed to live in the city and worship as they chose. Furthermore, Salāh al-Dīn allowed them to work within his service and be employed in government. It seems that they were satisfied with the good treatment of Salāh al-Dīn.<sup>78</sup>

It has been argued that this treatment shown by Salāh al-Dīn toward the native Christians was the result of the good and warm relations between Salāh al-Dīn and the Byzantine Emperor Isaac Angelus. It was reported that Salāh al-Dīn received a message from the emperor, just after the liberation of Islamic Jerusalem, congratulating him and the Muslims on their victory over the Franks and requesting

<sup>77</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, pp. 47-48, Abū-Shāma, *Kitāb al-Rawdatain*, *op. cit.*, Vol. 3, p. 158, Ibn al-Athīr, *al-Kāmil*, *op. cit.*, Vol. 10, p. 158, Ranciman, *A History of the Crusades*, *op. cit.*, Vol. 2, p. 467.

<sup>78</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p. 48.

him to revert back the churches in the city to the Orthodox sects. Moreover, he asked that Christian ceremonies be according to the Greek Orthodox Church and his request was later granted.<sup>79</sup> Salāh al-Dīn allowed the native Christians to pray freely in their churches, and he handed over control of Christian affairs to the Byzantine patriarch. Regan claims that Salāh al-Dīn found this a good opportunity for strengthening the disagreements between the followers of the Church of Rome and the Orthodox Church.<sup>80</sup>

The attitude of the native Christians during the siege towards Salāh al-Dīn was based on collaboration. Some argue that Salāh al-Dīn would not have been able to recover Islamic Jerusalem without their help. Native Christians had secret contact with Salāh al-Dīn though Yūsuf Batīt, an Arab orthodox scholar from Islamic Jerusalem. They were ready to help Salāh al-Dīn and his army to liberate Islamic Jerusalem by opening the gates at a certain time agreed on by Salāh al-Dīn's forces. One cannot deny that there was some kind of collaboration between the two sides. Regan argues that one of the reasons behind Balian and the patriarch asking for surrender of Islamic Jerusalem and safe conduct is that they felt doubt and insecurity about the loyalty of the native Christians. It was well known to all Crusaders that thousands of Greek Orthodox Christians in Islamic Jerusalem would actually welcome a Muslim conquest to liberate them from the domination of the Church of Rome.<sup>81</sup> At the time of the crusades, they were made to attend ceremonies in which the language and rituals were alien to them. They had always looked back with longing to the days when they were under Muslim rulers, i.e. Caliph 'Umar; then the Christians had the

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<sup>79</sup> Ranciman, *A History of the Crusades*, *op. cit.*, Vol. 2, pp. 467-468.

<sup>80</sup> Regan, *Saladin*, *op. cit.*, p. 155.

<sup>81</sup> *Ibid.*, p. 142. See also 'Āshūr, *al-Haraka al-Salībīyya*, *op. cit.*, Vol. 2, p. 645.

freedom to worship as they pleased.<sup>82</sup> However, it seems that Salāh al-Dīn's recovery of Islamic Jerusalem occurred without physical intervention of the Orthodox Christians, as was discussed previously in terms of the negotiations between Salāh al-Dīn and Balian. There is no doubt that the Orthodox Christians and their priests benefited greatly from the departure of the Catholic Latins from Islamic Jerusalem, as this gave them the opportunity to return their sovereignty of the Christian holy places.<sup>83</sup>

Upon the recovery of Islamic Jerusalem, Salāh al-Dīn returned all the Coptic churches and monasteries, in addition to all the places taken by the Crusaders, to the Coptic priest. It was reported that Salāh al-Dīn granted the Copts a place in Islamic Jerusalem, which is known as *Daīr al-Sultān* (monastery of the *Sultān*). For almost ninety years Egyptian Orthodox Copts had been banned from visiting the holy city since the establishment of the Latin kingdom of Jerusalem because, according to the Latin, they were heretical and atheist.<sup>84</sup> However, Salāh al-Dīn allowed the Egyptian Copts to visit the Church of the Holy Sepulchre and other Christian religious places. He also exempted them from paying fees for their visit to Jerusalem; the main reason for this treatment was that they were his subjects.<sup>85</sup>

With regard to the Christians of *Habsha* (Abyssinian), Salāh al-Dīn also treated them generously, especially when he ordered his employees to exempt them from paying

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<sup>82</sup> Ranciman, *A History of the Crusades*, op. cit., Vol. 2, pp. 464-465.

<sup>83</sup> Āshūr, *al-Haraka al-Salībiyya*, op. cit., Vol. 2, p. 649.

<sup>84</sup> Sawīrus, *Tārīkh Batārikat al-Kanīisah*, op. cit., Vol. 2, Part. 2, p. 249

<sup>85</sup> Khūrī, Shuhādh and Niqūla, *Khulāset Tārīkh Kanīsat Urshālīm al-Orthūthiksyyah*, Matba'at Baīt al-Maqdis, (Jerusalem 1925 AD), pp. 78-80.

fees when visiting the holy places in Islamic Jerusalem.<sup>86</sup> 'Āshūr adds that Salāh al-Dīn showed respect to their monasteries in Islamic Jerusalem and treated the Habashī priest, who was taking care of these places, with mercy and kindness.<sup>87</sup>

## 6.5 Muslim's treatment of the Christians at the time of the Third Crusade<sup>88</sup>

The fall of Islamic Jerusalem was followed by several campaigns and another major crusades effort to regain it. The third crusade (1189-1193 AD) was led by three of medieval Europe's most famous monarchs: Emperor Frederick Barbarossa of Germany, King Philip II Augustus of France, and King Richard I 'the Lion-Heart' of England. This was a strong start, but the crusades quickly weakened. Frederick Barbarossa accidentally drowned while he was marching towards Islamic Jerusalem,<sup>89</sup> and this halted his army's momentum. As a result, most of the army trudged back to their German homes. Salāh al-Dīn attributed this death to the will of Allah, for he had feared the strength of Frederick's army. Philip Augustus was taken ill during the siege of Acre, and only partially recovered, or so he said. He was probably tired of fighting the Muslims and disagreeing with Richard and the other Crusaders and therefore, decided to go back home. Although Richard enjoyed much

<sup>86</sup> 'Āshūr, Sa'īd 'Abd al-Fattāh, *Ba'd Adwā' Jadīda 'lā al-'lāqāt Baī Misr wa al-Habashafti al-'Usūr al-Wstā*, al-Majala al-Misriyya al-Tārikhiyya, Vol.14, 1968 AD, p. 22. (Hereinafter cited as: 'Āshūr, *Ba'd Adwā' Jadīda*).

<sup>87</sup> Ibid., p. 22.

<sup>88</sup> It should be noted that there is no mention of the second crusade (1147- 1149 AD) in this chapter, as *Salāh al-Dīn* had no role in it due to his very young age at the period.

<sup>89</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, op. cit., p. 192, Abū- Shāma, *Kitāb al-Rawdatain*, op. cit., Vol. 4, pp.129-130, Ibn al-'Adīm, *Zubdat al-Halab*, op. cit., p.421, Al-Hanbalī, *al-Uns Al-Jalīl*, op. cit., Vol. 1, pp. 510-511.



military success and won back a considerable portion of the Holy land, he failed to take Islamic Jerusalem.

Far from being a thorough study of the third crusade, this section will only highlight the relationship between the King of England, Richard the Lion-Heart, and the Muslim Sultan, Salāh al-Dīn. The reason is because Richard and Salāh al-Dīn led all the episodes of negotiations between the Crusaders and Muslims; apart from a long letter sent by Frederick Barbarossa, when he was still in Germany, to Salāh al-Dīn threatening him and asking him to hand over Islamic Jerusalem and the holy lands or else he would come down to fight him. Salāh al-Dīn then sent him a reply, and it seems that this was the only communication between the two leaders.<sup>90</sup>

As soon the Crusades had moved their forces to Acre, they led a siege against the city for almost two years, during which thousands on both sides died. At this stage, channels of communication between the Muslim and crusader sides, represented by Salāh al-Dīn and Richard, were established. According to Ibn Shaddād, although the fighting was very fierce and violent, the Muslims were very patient and remained as steadfast as noble heroes. When the Crusaders saw this, they were surprised; so Richard sent a messenger first to al-ʿĀdil, Salāh al-Dīn's brother, asking for a meeting with Salāh al-Dīn in order to discuss some matters. However, Salāh al-Dīn answered immediately:

'Kings do not meet unless an agreement has been reached. It is not good for them to fight after meeting and eating together. If he wants this, an agreement must be settled before it can happen. We must have an interpreter whom we can trust to act between us, and who can

<sup>90</sup> Stubbs, Willaim. *Itinerarum Peregrinorum et gesta Regis Ricardi*, Trasnleted into Arabic under the name *al-Harb al-Salībīyā al-Thālitha (Salāh al-Dīn and Richard)*, By Habashi, Hasan, al-Haī'a al-Misrīa al-ʿĀma lil Kitāb. (Egypt 2000 AD). Vol.1, pp. 57-63.

make each of us understand what the other says. Let the envoy be our mutual interpreter. If we come to an agreement, the meeting can happen later, God willing.<sup>91</sup>

Richard agreed about the interpreter and sent another messenger asking to set a time to meet on the plain with their troops surrounding the two of them. Salāh al-Dīn accepted the invitation, but the meeting did not take place on account of Richard's being suddenly taken ill. It was reported as well that the Frankish princes had met with Richard and expressed their disapproval of his actions as they were endangering Christianity. Richard sent a messenger to Salāh al-Dīn explaining the reason for his absence.<sup>92</sup>

After a period of time, when it became clear to the defenders of Acre, the Muslim inhabitants of the city, that there was no hope of Salāh al-Dīn's army reaching the city to aid them, they asked the Crusaders for surrender terms.<sup>93</sup> When these were agreed upon they surrendered the city. To ensure that the terms were fulfilled, 3000 prisoners were taken as hostages. The conditions, agreed upon by the inhabitants of the city and the Crusaders were, as Ibn Shaddād states:

'That they would give up the city and all the engines, equipment and ships it contained and hand over 200000 *dinārs*, 1500 prisoners of common, unremarkable background and 100 prisoners to be specified by the Franks, whom they would select, and additionally the Holy Cross that was taken by the Muslims. These would be granted, provided that the Muslims could leave in safety, taking with them their personal wealth and goods and their children and womenfolk. They guaranteed to the marquis (for he had been reconciled and had

<sup>91</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, p. 122-4. See also Ibn Shaddād, Bahā' al-Dīn, *The Rare and Excellent History Of Saladin or Al-Nawādir al-Sultāniyya wa al-Mahāsin al-Yūsufiyya* Translated by Richards. D.S, Ashgate (Hants-U.K 2001), p. 152-153. (Hereinafter cited as: Ibn Shaddād, *The Rare and Excellent*), 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p. 253.

<sup>92</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, pp. 125-126. See also Ibn Shaddād, *The Rare and Excellent op. cit.*, p. 155, 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p. 253.

<sup>93</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, pp. 128-129. See also Ibn Shaddād, *The Rare and Excellent, op. cit.*, pp. 158-160, 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p. 259.

returned) 10,000 *dinārs* because he was the intermediary, and 4000 *dinārs* to his men. On that basis an agreement was concluded between them and the Crusaders'.<sup>94</sup>

Therefore, under this agreement, Salāh al-Dīn was supposed to hand in the agreed amount of money, Christian prisoners to be exchanged for the Muslim hostages, and the True Holy Cross to be restored to them. However, progress was slow because Salāh al-Dīn had doubts that if the Crusaders received the money, the cross and the prisoners, while still having the Muslim hostages, they would act treacherously and then the loss for the Muslims would be too great to be repaired.<sup>95</sup> Richard lost his patience and massacred some 2700 Muslims in the sight of Salāh al-Dīn's army;<sup>96</sup> according to Ibn al-'Adīm, Richard killed 2200 and saved the rest.<sup>97</sup> Elizabeth Hallam criticise this incident by saying that later chronicles contrasted this incident with Salāh al-Dīn's more chivalrous treatment of Frankish prisoners.<sup>98</sup> Lane-Poole states that there was 'no imaginable excuse or palliation for the cruel and cowardly massacre that followed'.<sup>99</sup> He quotes a chronicle describing this horrible scene:

'Orders were then given to cut off the heads of the hostages with the exception of a few of the nobler prisoners, who perhaps might yet be relieved or exchanged for captive Christians. King Richard, always eager to destroy the Muslims, to confound the law of Muhammad utterly, and vindicate that of Christ, on the Friday after the Assumption bade 2700 Muslim hostages led out of the city and beheaded. Nor was there any delay. The king's followers

<sup>94</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.* p. 131. See also Ibn Shaddād, *The Rare and Excellent*, *op. cit.*, p.161, 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p. 259.

<sup>95</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.* p.134. See also Ibn Shaddād, *The Rare and Excellent*, *op. cit.*, p.164, 'Imād al-Dīn al-Asfahānī. *Kitāb al-Fath al-Qussī*, *op. cit.*, pp. 268-269.

<sup>96</sup> 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, *op. cit.*, p. 269, See also Al-Dhahabī, *Duwal al-Islām*, *op. cit.*, Vol.2, pp. 95-96, Abū al-Fidā', *al-Mukhtasr*, *op. cit.*, Vol. 2, p. 165, Al-Hanbalī, *al-Uns Al-Jalīl*, *op. cit.*, Vol. 1, p. 524. .

<sup>97</sup> Ibn al-'Adīm, *Zubdat al-Halab*, *op. cit.*, p. 425.

<sup>98</sup> Hallam, Elizabeth, *Chronicles of the crusades: eye witness accounts of the wars between Christianity and Islam*, Guild Publishing. (London 1989 AD), p.153.

<sup>99</sup> Lane-Poole, *Saladin*, *op. cit.*, p. 306.

leapt forward eager to fulfil the commands, and thankful to the Divine Grace that permitted them to take such vengeance for those Christians whom these very (captives) had slain with bolts and arrows'.<sup>100</sup>

After the Crusaders had captured Acre they marched along the coast with Salāh al-Dīn was not far behind. King Richard the Lion-Heart asked for al-'Ādil, who came up to the advanced guard, for a meeting; this was granted. However, the meeting did not go well. King Richard started talking about peace; according to Ibn Shaddād al-'Ādil said to him:

'You desire peace but you do not mention your demands that I might mediate your differences with the sultan'. The King of England replied, 'the basic condition is that you should restore all the lands to us and return to your countries'. Al-'Ādil gave a harsh answer and a quarrel followed which led to the enemy's departure after the two of them had separated.<sup>101</sup>

From Richard's reply, it can be seen that he saw the Muslims as invaders and had no rights, not only in Islamic Jerusalem but also in the whole area. Richard also believed that the Crusaders were the real owner of those lands and the Muslims should leave the area. As a result, negotiations were unsuccessful and a battle was fought near *Arsūf* on 14<sup>TH</sup> *Sha'bān* 581 AH/ 7<sup>TH</sup> September 1191 AD. King Richard achieved a victory over the Muslims at *Arsūf*. The Crusaders then headed to Jaffa (*Yāfā*) and won that land as well. It seems that King Richard had remembered his last meeting with al-'Ādil, and discovered that it had not been a proper basis for a peace treaty. Therefore, on the 26<sup>TH</sup> *Ramādān* 581 AH /18<sup>th</sup> October 1191 AD, Richard met al-'Ādil at *Yāzūr*; they talked for a long time and discussed the matter of peace. King

<sup>100</sup> Ibid., p. 306.

<sup>101</sup> Ibn Shaddād, *Al-Nawādir*, op. cit., pp. 141-142, See also Ibn Shaddād, *The Rare and Excellent*, op. cit., p. 174.

Richard made a proposition and asked al-‘Ādil to write it and send it to Salāh al-Dīn. This letter, seen as the most important correspondence between Salāh al-Dīn and Richard, states:

‘You will greet him and say, ‘The Muslims and the Franks are done for. The land is ruined, ruined utterly at the hands of both sides. Property and lives on both sides are destroyed. The matter has received its due. All we have to talk about is Islamic Jerusalem, the Holy Cross and these lands. Now Islamic Jerusalem is the centre of our worship, which we shall never renounce, even if there was only one of us left. As for these lands, let there be restored to us what is this side of Jordan River. The Holy Cross is a piece of wood that has no value for you, but it is important for us. Let the sultan bestow it upon us. Then we can make peace and have rest from this constant hardship.’<sup>102</sup>

Salāh al-Dīn read the message and then summoned the leading men of his council and consulted them about what to reply. Salāh al-Dīn’s famous reply was as follows:

‘Islamic Jerusalem is ours as much as it is yours. Indeed, for us it is greater than it is for you, for it is where our Prophet came on his Night Journey and the gathering place of the angels. Let not the king imagine that we shall give it up, for we are unable to breathe a word of that amongst the Muslims. As for the land, it is also ours originally. Your conquest of it was an unexpected accident due to the weakness of the Muslims there at that time. While the war continues Allah will not enable you to build up one stone there. From the lands in our hands we, thanks be to Allah, feed on the produce and draw our benefit. The destruction of the Holy Cross would in our eyes be a great offering to Allah, but the only reason we are not permitted to go that far is that some more useful benefit might accrue to Islam’.<sup>103</sup>

<sup>102</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, p. 151-152, See also Ibn Shaddād, *The Rare and Excellent*, *op. cit.*, pp. 185-6, Abū-Shāma, *Kitāb al-Rawdatain*, *op. cit.*, Vol.4, pp. 285-286.

أَنْتَ نَسَمُ عَلَيْهِ وَتَقُولُ لَهُ إِنَّ الْمُسْلِمِينَ وَالْإِنْرَجِ كَدَ مَنُكُوا وَخَرِبْتَ الْبِلَادَ وَخَرَجْتَ مِنْ بَدِ الْفَرِيقَيْنِ بِالْكُفْيَةِ وَقَدْ تَلَقَّتِ الْأَمْوَالَ وَالْأَرْوَاحَ مِنَ الظَّالِمِينَ وَقَدْ أَحَدَ هَذَا الْأَمْرَ حَلَهُ وَنَاسَ مَنَّاكَ حَدِيثَ سَوَى الْقُدْسِ وَالصَّنِيبِ وَالْبِلَادِ وَالْقُدْسِ مَتَمِدْنَا مَا نَقَرْنَا عَنْهُ وَلَوْ نَمُ يَبْقَ مِنْهَا إِلَّا وَاحِدًا. وَأَمَّا الْبِلَادُ فَيَعَادُ إِلَيْنَا مَا هُوَ قَاطِعُ الْأَرْدَنِ. وَأَمَّا الصَّلِيبُ فَهُوَ خَشَبَةٌ عِنْدَكُمْ لَا مَقْدَارَ لَهُ وَهُوَ عِنْدَنَا عَظِيمٌ فَيَمُنُّ بِهِ السُّلْطَانُ عَلَيْنَا وَنَصْطَلِحُ وَنَسْتَرْجِعُ مِنْ هَذَا التَّعَبِ.

<sup>103</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, p.152. See also Ibn Shaddād, *The Rare and Excellent*, *op. cit.*, p. 186, Abū-Shāma, *Kitāb al-Rawdatain*, *op. cit.*, Vol. 4, p. 286.

From this it can be seen how Islamic Jerusalem was important to both sides and how each had their reasons for wanting it. Moreover, both sides would make the utmost effort to keep the city under his control. Richard was obviously very exhausted of war as shown in his attempt to persuade Salāh al-Dīn to arrange for peace. The message shows the drop in Richard's demands; he is now asking only about Jerusalem, where in the previous letters he was asking about the whole region. However, Richard is still insisting that Jerusalem is for the Christians only and cannot be shared with the Muslims. Whereas, Salāh al-Dīn's reply shows a totally different attitude. Salāh al-Dīn acknowledges the Christians' rights in Islamic Jerusalem; he asserts the rights of the Muslims in controlling the city; and refutes his claim that the Muslims are invaders.

King Richard was trying his best to establish a peace agreement with Salāh al-Dīn. On 29<sup>TH</sup> *Ramādān* 581 AH (21<sup>ST</sup> October 1191AD) he offered peace on these terms: al-'Ādil was to marry his sister Joan (the widowed queen of Sicily); then the couple to live in Islamic Jerusalem; and Salāh al-Dīn should give to al-'Ādil all the coastal lands he held and make him king of the Littoral. In addition to the lands and fief (*Iqtā'āt*) that were in Salāh al-Dīn hands, both al-'Ādil and Joan should together rule the land; the holy cross was to be returned to the Crusaders; prisoners from both sides were to be freed; and the Templars and Hospitallers were to be given villages. It was proposed that this should be the basis for a peace settlement, and if this was

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القدس لنا كما هو لكم وهو عندنا أعظم مما هو عندكم فإنه سرى نبينا ومجمع الملائكة فلا تتصور أن ننزل عنه ولا نقدر على التفريط بذلك بين المسلمين وأما البلاد فهي أيضاً لنا في الأصل واستبلاؤكم عليها كان طارئاً عليها نضعف من كان فيها من المسلمين في ذلك الوقت وما يقدركم الله على عبارة حجر منها ما دام الحرب قائما وما في أيدنا منها نأكل بحمد الله معناه وننتفع به. وأما الصليب فهلاكه عندنا قربة عظيمة لا يجوز لنا أن نفرط فيها إلا لمصلحة راجعة إلى الإسلام.

settled, Richard would return to England.<sup>104</sup> When Salāh al-Dīn received these terms, he immediately expressed approval of these terms, while at the same time taking them as a joke on Richard's part. He believed that Richard would not agree to any of them and that they were meant to mock and deceive him. Indeed, what Salāh al-Dīn expected came true; after hearing the approval of Salāh al-Dīn to the marriage conditions, Richard apologized by saying that his sister had utterly rejected the idea and swore by her religion that she would never marry a Muslim. Richard then proposed that if al-ʿĀdil became a Christian he would fulfill the marriage condition.<sup>105</sup>

Since his approaches to Salāh al-Dīn with peace treaties had been unsuccessful, Richard decided to take drastic measures and marched towards Islamic Jerusalem, in the hope of recovering the city and finishing the job that he had come to do. On the 27<sup>TH</sup> *Jumādā al-Thānī* 588 AH (6<sup>TH</sup> June 1192 AD) the Crusaders under the leadership of Richard arrived at the village of *Baīt Nūba*, west of Islamic Jerusalem, and chose it as the base for capturing Islamic Jerusalem. He examined the situation carefully in terms of the military situation, the forces available on both sides, and the outcome of such a military campaign. Richard realised that the situation was very difficult and it soon became clear to him that the game was not worth it. He might spend years besieging Islamic Jerusalem before victory and then find it virtually impossible to hold. He had enough forces and power to hold a siege in Islamic

<sup>104</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, pp. 153-154, See also Ibn Shaddād, *The Rare and Excellent op. cit.*, pp. 187-1888, 'Imād al-Dīn al-Asfahānī. *Kitāb al-Fath al-Qussī*, *op. cit.*, pp. 284-285, Abū-Shāma, *Kitāb al-Rawdatain*, *op. cit.*, Vol. 4, pp. 283-284.

<sup>105</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, pp. 153-154, Ibn Shaddād, *The Rare and Excellent*, *op. cit.*, pp. 187-188, 'Imād al-Dīn al-Asfahānī. *Kitāb al-Fath al-Qussī*, *op. cit.*, pp. 284-285, Abū-Shāma, *Kitāb al-Rawdatain*, *op. cit.*, Vol. 4, p. 284.

Jerusalem, but he could not keep up a supply of food and water for a long period of time. He had a meeting with the leaders of his army within his camp and told them that he would never desert them; he would proceed to Islamic Jerusalem as a comrade but not as a commander or leader. He then asked if anyone would volunteer to be leader. They all realised that if Richard was unable to be leader, then neither any of them.<sup>106</sup> Therefore Richard started re-insisting on a peace treaty.

In fact from reading different sources, the researcher is inclined to believe that the reason behind Richard's insistence can be summarized in three main points. Firstly, his health appeared to be deteriorating shortly after the capture of Acre, and it seemed that the climate in Palestine did not help. During the summer of 588 AH (1192 AD), when they were in *Baīt Nūba*, King Richard's health deteriorated more. Secondly, his assessment of the power of the Muslim army showed him that it was more than he had expected. He had thought, since he had a large army from several European countries, he would easily defeat Salāh al-Dīn's army. However, he now saw the strength and power of Salāh al-Dīn's armies. The third point was regarding the deteriorating situation in England; his brother John was planning to overthrow him and takeover his throne.

Richard and his armies failed to recover Islamic Jerusalem. This resulted in disagreement between the Crusaders themselves about whether to march up to Islamic Jerusalem or go back to their own territory.<sup>107</sup> The French were in favour of marching to Islamic Jerusalem, saying: 'the only reason we came was Jerusalem and

<sup>106</sup> Geoffrey de Vinsauf. *Itinerary of Richard I and others to the Holy Land*, 'Translated as 'conjoint labour of a classical scholar and a gentlemen well read in medieval history' Henry G. Bohm, (London 1948 AD), p. 301.

<sup>107</sup> Abū-Shāma, *Kitāb al-Rawdatain*, op. cit., Vol. 4, p. 310.



we shall not return without it'.<sup>108</sup> However, Richard argued about the way they were going to get water to drink as the water in the wells around Islamic Jerusalem had been poisoned by the order of Salāh al-Dīn.<sup>109</sup> A meeting was held and a decision was reached for the departure. In the early morning of 21<sup>ST</sup> *Jumādā al-Thānī* 588 AH (4<sup>th</sup> July 1192 AD) they set out in the direction of *Ramla*, retreating the way they had come.<sup>110</sup>

On Thursday 26<sup>TH</sup> *Jumādā al-Thānī* 588 AH (9<sup>th</sup> July 1192 AD) the Crusaders' messenger returned with the *al-Hājeb* Yūsuf with a message from Richard to Salāh al-Dīn; this, according to Ibn Shaddād, was as follows:

'The king of England desires your love and friendship. He does not wish to be a Pharaoh ruling the earth and he does not think that of you. 'It is not right' he says, 'for you to ruin all the Muslims, nor for me to ruin all the Franks. Here is my nephew, Count Henry, whom I have made ruler of these lands. I hand him and his troops over to your authority. If you were to summon them for execution they would hear and obey. Many monks and men of religion have asked you for churches and you have not grudged them what they asked. Now I ask you for a church. Those matters which annoyed you in the negotiations with al-Ādil I have declared that I give them up. I have renounced them. Were you to give me a very small village, I would accept it'.<sup>111</sup>

<sup>108</sup> Ibn Shaddād, *Al-Nawādir*, op. cit., p. 174, Abū-Shāma, *Kitāb al-Rawdatain*, op. cit., Vol. 4, p. 310.

<sup>109</sup> Ibn Shaddād, *Al-Nawādir*, op. cit., pp. 168-175, Ibn Shaddād, *The Rare and Excellent*, op. cit., pp. 209-212, Abū-Shāma, *Kitāb al-Rawdatain*, op. cit., Vol. 4, p. 306.

<sup>110</sup> Ibn Shaddād, *Al-Nawādir*, op. cit., p. 175, Abū-Shāma, *Kitāb al-Rawdatain*, op. cit., Vol. 4, p. 311.

<sup>111</sup> Ibn Shaddād, *Al-Nawādir*, op. cit., p. 176, Ibn Shaddād, *The Rare and Excellent*, op. cit., pp. 213-214.

أَنْ أَمَّاكَ الْإِسْكَانُ يَقُولُ إِنِّي رَأَيْتُ فِي مَوَدِّكَ وَصَدَائِكَ وَأَنَّهُ لَا يَرِيدُ أَنْ يَكُونَ فَرَعُونَ بِمَنْكَ الْأَرْضَ وَلَا يَطْنُ ذَلِكَ فِيكَ وَلَا يَجُوزُ لَكَ أَنْ تَهْلِكَ الْمُسْلِمِينَ كُلَّهُمْ وَلَا يَجُوزُ لِي أَنْ أَمَّاكَ الْإِسْكَانُ كُلَّهُمْ وَهَذَا ابْنُ أَخِي الْكَنْدَمَرِيُّ قَدْ مَنَّكَ مَدَّةَ الْأَيَّامِ وَسَمِعْتُهُ إِذْ لَيْسَ يُكُونُ مَعَهُ وَعَسْكَرُهُ تَحْتَ حَكْمِكَ وَلَوْ اسْتَدْعَيْتَهُمْ إِلَى الشُّنْقِ سَمِعُوا وَأَطَاعُوا وَيَقُولُ إِنَّ جَمَاعَةً مِنْ أَرْمِينِ الْمَنْقُطِيِّينَ قَدْ طَلَبُوا مِنْكَ كَنَائِسَ مَا بَخَلْتَ عَلَيْهِمْ وَأَنَا أَطْلُبُ مِنْكَ كَنَيْسَةَ وَتِلْكَ الْأُمُورُ الَّتِي كَانَتْ تُضَيِّقُ صَدْرَكَ مَا كَانَ يَجْرِي فِي الْمَرَاثَةِ مَعَ أَمَّاكَ الْمَادُنَ تَرَكْتَهَا وَأَعْرَضْتَ عَنْهَا وَلَوْ أَعْطَيْتَنِي سَفَرَةً أَوْ خَرَبَةً قَبَّلْتُهَا.

Ibn Shaddād then states that:

When the sultan had heard this message, he gathered his advisers and counsellors and asked them what the reply to this message should be. There was no one who did not advise conciliation and a conclusion of peace because of the fatigue, exhaustion and burden of debts from which the Muslims suffered. It was agreed to make this response: 'if you make this sort of overture to us, goodwill cannot be met with other than goodwill. Your nephew will be to me like one of my sons. You shall hear how I shall treat him. I shall bestow on him the greatest of churches, the Holy Sepulchre, and the rest of the land's upland castles that are in our hands shall remain ours. What is between the two regions shall be considered condominium. *Asqalān* and what is beyond shall be left in ruins, neither yours nor ours. If you want its villages, let them be yours'.<sup>112</sup>

From studying Richard's letter, it shows how desperate he was to finish the job he came to do, by any means and with any results. His letter, from top to bottom, indicates a need for an arrangement in a friendly and conciliatory spirit. Furthermore, it shows how far Richard's concession had gone, in that he was willing to accept even a small village, in contrast to the early stages when he had asked Salāh al-Dīn's army to return to their countries and leave Islamic Jerusalem and the area to him. King Richard went further to confirm the sovereignty of Salāh al-Dīn over all when he recommended his own nephew to Salāh al-Dīn's good grace. Salāh al-Dīn's reply was for peace. He promised him, first, that he would treat his nephew as a son; second, he would hand him the most important Church in Islamic Jerusalem for the

<sup>112</sup> Ibn Shaddād, *Al-Nawādir*, op. cit., p.176, Ibn Shaddād, *The Rare and Excellent*, op. cit., p. 214.

فلما سمع السلطان هذه الرسالة جمع أرباب الرأي وأصحاب مشورته وسألهم عما يكون الجواب لهذه الرسالة فما منهم إلا من أشار بالتحاسنة وعقد الصلح لما كان قد أخذ المسلمين من الضجر والتعب وعلام من الذبون. واستقر الحال على هذا الجواب. إذا دخلت معنا هذا الدخول فما جزاء الإحسان إلا الإحسان إن ابن أخنك يكون عندي كبن من أولادي وسينك ما فعل معي وأنا أعطيتك أكبر الكنائس وهي القمامة وأما بقية البلاد فنفسها فالساحنة التي بينك تكون بينك والذي بأبدنا من الفلاح الحبلية يكون لنا وما بين المسلمين يكون مضافة وعسقلان وما وراءها يكون خراباً لا لنا ولا لكم وإن أردتم قراها كانت.

Christians; and finally, he would divide the country between the Muslims and Christians.

A day later, on 29<sup>TH</sup> *Jumādā al-Thānī* 588 AH /12<sup>TH</sup> July 1192 AD, another messenger was sent by Richard to see Salāh al-Dīn, to convey his thanks, and with a new request:

‘What I request from you is that we should have twenty persons in the citadel of Islamic Jerusalem and that the local Christians and Franks who live in the city should not be harassed. As for the rest of the land, we have the coastal plain and the lowlands and you have the hill country’.<sup>113</sup>

This time the messenger of Richard on his own initiative exposed an important issue, which was that the gaining of Islamic Jerusalem was no longer Richard's intention; he had given up all talk about the city apart from being allowed to make pilgrimage there. King Richard wished to reach a peaceful agreement and then return home. Salāh al-Dīn discussed the issue with his advisers and his answer to the messenger was ‘you will not have anything at all to do with Islamic Jerusalem, apart from making pilgrimage visit’. The messenger replied, ‘but the pilgrims would have nothing to pay’. From these words it was understood that he agreed with the terms.<sup>114</sup>

It is important to mention here that these negotiations occurred while the fighting was still going on at different locations. During the fight in *Yāfā*, Richard asked to meet Chamberlain (*al-Hājeb*) Abū Bakr. At the meeting, Richard, according to Ibn *Shaddād*, said:

<sup>113</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, p.177.

<sup>114</sup> *Ibid.*, p. 177.

'This sultan of yours is a great man. Islam has no greater or mightier prince on earth than him... By God, he is great... Greet the sultan for me and say for God's sake grant me what I ask for to make peace. This is a matter that must have an end. My lands over the sea have been ruined. For this to go on is no good for us nor for you'.<sup>115</sup>

While negotiations were still going on between Salāh al-Dīn and King Richard, the latter's health deteriorated; he had a burning fever. He craved for fruit and ice, and had a yearning for pears and plums. In a gesture of goodwill, Salāh al-Dīn supplied these fruits with refreshing snow from the mountain.<sup>116</sup> It appears that there were two reasons for this: Firstly, Richard's sickness seems to have softened the heart of Salāh al-Dīn towards Richard,<sup>117</sup> and secondly, to gain intelligence access by the coming and going of the messengers.<sup>118</sup> Meanwhile, Richard had a meeting with Chamberlain Abū Bakr al-ʿĀdilī and told him to thank Salāh al-Dīn for the fruit and the ice. He also asked al-ʿĀdil how he could influence Salāh al-Dīn to make peace and asked him to beg Salāh al-Dīn to give Richard *Asqalān*. In return, Richard would agree to leave but he would leave behind him his little band, so that Salāh al-Dīn would be able to take the land from them. All he aimed for, upon his departure, was to strengthen his reputation amongst the Crusaders. Salāh al-Dīn admitted that if they agreed to give up *ʿAsqalān*, then a peace treaty would be concluded with them as his army was very tired of fighting and constant campaigning and their resources were

<sup>115</sup> Ibid., pp. 184-185.

هذا السلطان عظيم وما في هذه الأرض للإسلام أكبر ولا أعظم منه كيف رحل عن المكان بمجرد وصولي والله ما  
لايست لأمة الحرب ولا تأميت لأمر وليس في رجلي إلا رنول البحر فكيف تأخر ثم قال والله العظيم الكريم ما ظننت  
أنه يأخذ يافا في شهرين فكيف أخذها في يومين. ثم قال لأبي بكر سلم على السلطان وقل له بالله عنيك أجب سؤالي في  
الصالح فهذا الأمر لا بد له من آخر وقد هلكت بلادنا وراء البحر وما في دوام هذا مصلحة لا لنا ولا لكم.

<sup>116</sup> Ibn Shaddād, *Al-Nawādir*, op. cit., p. 188.

<sup>117</sup> Lane-Poole, *Saladin*, op. cit., p. 357.

<sup>118</sup> Ibn Shaddād, *Al-Nawādir*, op. cit., p. 188, Ibn Shaddād, *The Rare and Excellent*, op. cit., pp. 227-228.

exhausted.<sup>119</sup> Salāh al-Dīn wanted to rest his army for a while so that they could recover and gain strength. Furthermore, he wanted to make the land productive again, and be capable of supplying Islamic Jerusalem with more weapons to strengthen and support his defences.<sup>120</sup> Finally *Al-Ramla* peace treaty was carefully negotiated and signed on 23<sup>RD</sup> *Sha'bān* 588 AH (2<sup>ND</sup> September 1192),<sup>121</sup> stipulating a period of three years and eight months; according to Ibn al-'Adīm (died 660 AH /1262 AD) it was for a period of three years and five months,<sup>122</sup> and for three years and three months according to Abū al-Fidā' (died 732 AH /1332 AD) and al-Maqrīzī (died 845 AH /1442 AD).<sup>123</sup> The conditions of the treaty included that '*Asqalān* was to be destroyed and was not to be rebuilt by anyone for three years. The starting date of the peace treaty was 22<sup>ND</sup> *Rabī' al-Awwal* 589 AH (28<sup>TH</sup> March 1193 AD). After the three years, whoever was stronger would get '*Asqalān*. Salāh al-Dīn would give them Joppa, its vicinity and the sea-coast and the mountains. Salāh al-Dīn was to keep Islamic Jerusalem, provided that he allows free passage, without tribute, and the freedom of selling objects to any land exercising free commerce. Both sides signed the treaty.<sup>124</sup>

Immediately after signing, Salāh al-Dīn ordered the herald to make a loud proclamation in the encampments and in the markets:

<sup>119</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, p. 189.

<sup>120</sup> *Ibid.*, p.192.

<sup>121</sup> Ibn al-Athīr, *al-Kāmil*, *op. cit.*, Vol.10, p. 218, Ibn Shaddād, *Al-Nawādir*, *op. cit.*, p.191.

<sup>122</sup> Ibn al-'Adīm, *Zubdat al-Halab*, *op. cit.*, p. 426.

<sup>123</sup> Abū al-Fidā', *al-Mukhtasr*, *op. cit.*, Vol. 2, p. 169, Al-Maqrīzī, *Kitāb al-Mawā'iz*, *op. cit.*, Vol. 3, p. 409.

<sup>124</sup> Al-Qalqashandī, Ahmad Ibn 'Alī, *Subh al-A'shā fī Sinā'at al-Insā*, Edited by Shams al-Dīn M, Manshūrāt Muhammad 'Alī Baydūn. Dār al-Kutub al-'Ilmiya, (Beirut), n.d, 1<sup>ST</sup> Edition, Vol. 4, pp. 183-184, Ibn Kathīr, *al-Bidāya*, *op. cit.*, Vol. 12, p.350.

'Listen all! Peace has been arranged. Any person from their lands who wishes to enter ours may do so and any person from our lands who wishes to enter theirs may also do so'. The sultan announced that the pilgrim route from Syria was now open.<sup>125</sup>

Once again Salāh al-Dīn adhered to the terms of the peace treaty, which contained freedom of religion that included allowing Christians to visit various sites in Islamic Jerusalem and perform their pilgrimage. Salāh al-Dīn even gave them assistance and would send escorts with them to protect them until they were taken back to *Yāfā* (Jaffa).<sup>126</sup> The main reason for this assistance was to ensure that they had done their pilgrim duty and had then returned to their own lands happy and gracious. Furthermore, Salāh al-Dīn offered them food, and treated them kindly and spoke to them in a friendly way. However, Richard was unhappy and annoyed at seeing a very large number of Frank's pilgrims visiting Islamic Jerusalem. Therefore, he sent a letter to Salāh al-Dīn asking him not to allow Christians to visit Islamic Jerusalem unless they had written permission from him.<sup>127</sup> Salāh al-Dīn, for his part, refused Richard's request, justifying his refusal by saying that, if people were travelling a very long distance to get to Islamic Jerusalem, it would be unacceptable to prevent them from entering and visiting the holy site.<sup>128</sup> It seems that Salāh al-Dīn was aware that if he prevented these people from attending, they would go back and tell their people how they had been banned from visiting Islamic Jerusalem. As a result, people would feel outraged and start preparing for a new crusade. One might assume that Salāh al-Dīn would take Richard's request as a great opportunity to keep Islamic

<sup>125</sup> Ibn Shaddād, *Al-Nawādir*, op. cit., p.192. Ibn Shaddād, *The Rare and Excellent*, op. cit., p. 231, al-Hanbalī, *al-Uns Al-Jalīl*, op. cit., Vol. 1, p.536.

<sup>126</sup> Ibn Shaddād, *Al-Nawādir*, op. cit., p.193. Ibn Shaddād, *The Rare and Excellent*, op. cit., p.232.

<sup>127</sup> Ibn Shaddād, *Al-Nawādir*, op. cit., p.193, 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, op. cit., p.317, Abū-Shāma, *Kitāb al-Rawdatain*, op. cit., Vol. 4, p. 330, al-Hanbalī, *al-Uns Al-Jalīl*, op. cit., Vol. 1, p 537.

<sup>128</sup> Abū-Shāma, *Kitāb al-Rawdatain*, op. cit., Vol. 4, pp. 330-331.

Jerusalem away from the Crusaders. However, the sultan's refusal would prevent King Richard from having any control of Islamic Jerusalem even if this were spiritual domination. Salāh al-Dīn informed those visiting of the dissatisfaction of Richard, and told them that they could still perform their pilgrimages as he had refused his proposal.

It is worthwhile mentioning the incident that took place between Hubert Walter, the Bishop of Salisbury, and Salāh al-Dīn, during the former's visit to Islamic Jerusalem when he brought with him the pilgrim caravans to the holy places. When they arrived, Salāh al-Dīn welcomed them warmly. A meeting took place between the two men, where they discussed among several issues the character and morals of King Richard. After a friendly and warm meeting, Salāh al-Dīn asked him what present would he really like as he wanted to grant it to him. The Bishop thanked Salāh al-Dīn warmly and asked him to give him until the next day to think carefully about this present. The next day, the Bishop told Salāh al-Dīn that he wanted two Latin priests and Latin deacons to be permitted to celebrate divine service with the Syrians at the Lord's Sepulchre. These priests were to be maintained out of the offerings of the pilgrims. He also requested the same for Bethlehem and Nazareth. Salāh al-Dīn granted his request.<sup>129</sup>

The third Crusade, that lasted nearly five years, ended with Richard and Salāh al-Dīn parting on good terms. Each had generally shown respect for the other, at times exchanging generous gifts, even in the heat of battle. King Richard sailed out of

<sup>129</sup> Stubbs, Willaim. *Itinerarum Peregrinorum et gesta Regis Ricardi*. Translated into Arabic under the name *al-Harb al-Salībīyā al-Thālitha (Salāh al-Dīn and Richard)*, by Habashī, Hasan. *Al-Haī'a al-Misrīa al-'Āma lil Kitāb*. (Egypt 2000 AD), Vol.1, pp. 274-277.

Acre, in October 1192 AD, well aware that he was not leaving all his enemies behind, as more would be waiting to trap him during his journey home. Salāh al-Dīn returned from *al-Ramla* to Islamic Jerusalem to prepare the material to restore it and to look after its welfare. On being assured that King Richard has left the country,<sup>130</sup> Salāh al-Dīn started making plans to go for *Hajj* (pilgrimage at Makka),<sup>131</sup> a visit to which he was looking forward to. His plan was to go and inspect the coastal areas in Palestine and make sure that everything was in good order,<sup>132</sup> then to go to Damascus and stay there for a few days. Afterwards he would return to Islamic Jerusalem on his way to Egypt to examine its affairs, establish its government, and consider what would further its prosperity.<sup>133</sup> Salāh al-Dīn left Islamic Jerusalem on 6<sup>TH</sup> *Shawwāl* 588 AH (15<sup>TH</sup> October 1192AD). Shortly after his visit to Damascus, Salāh al-Dīn fell ill and had a very bad fever for nearly ten days. He died on 27<sup>TH</sup> *Safar* 589 AH (4<sup>TH</sup> March 1193), six months after the end of the third crusade.<sup>134</sup>

Lane-Poole points out that the secret behind Salāh al-Dīn's power was the love of his subjects; although other leaders had attained power by fear, severity, and majesty, Salāh al-Dīn was different. He attained his power by kindness.<sup>135</sup> The legacy and legend of Salāh al-Dīn only grew after his death. Respected by those who fought against him as well as those who surrendered to his mercy, he found a lasting place

<sup>130</sup> Ibn Shaddād, *Al-Nawādir*, op. cit., p.196, See also 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, op. cit., p. 317,

<sup>131</sup> Ibn Shaddād, *Al-Nawādir*, op. cit., p.196, 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, op. cit., p.317, Al-Hanbalī, *al-Uns Al-Jalīl*, op. cit., Vol. 1, p. 537.

<sup>132</sup> Ibn Shaddād, *Al-Nawādir*, op., cit., p.196.

<sup>133</sup> Ibid., p.196.

<sup>134</sup> Ibn Shaddād, *Al-Nawādir*, op. cit., pp.197-203, See also 'Imād al-Dīn al-Asfahānī, *Kitāb al-Fath al-Qussī*, op. cit., pp.325-327, Al-Hanbalī, *al-Uns Al-Jalīl*, op. cit., pp. 538-539.

<sup>135</sup> Lane-Poole, *Saladin*, op. cit., p. 367.



in the hearts of the Muslim people and achieved a fame rarely given in Western society to a non-Christian enemy. It was Salāh al-Dīn's adherence to the chivalric ideals of justice and magnanimity, as well as his combat expertise, that has given him a unique place amongst chivalric heroes.

Non-Muslim as well as Muslim writers describe Salāh al-Dīn as a man of justice and tolerance. This chapter is best concluded with a touching story that shows the kindness of Salāh al-Dīn towards his enemies even at a time when war was raging. The story has been narrated by many historians; quoted here is Ibn shaddād, who comments on it by saying that Salāh al-Dīn was a merciful man, even his enemies testified to his gentleness, generosity, mercy and compassion:

'During the siege, a crusader mother missed a child as Muslim thieves had entered her tent and had taken her unweaned infant of three months old and she spent all night pleading and shouting for help and crying. Her case came to the notice of the crusade's princes, who advised her to go and seek the help of Salāh al-Dīn as he had a merciful heart. The princes said to her 'Go and ask Salāh al-Dīn for the child and he will bring him back to you'. She went out to ask the Muslim advance guard for assistance, telling them of her troubles through an interpreter. They sent her to Salāh al-Dīn. She came to him when I (Ibn shaddād) was serving the sultan. She was sobbing and beating her breast and besmirched her face with soil. After he asked about her case and it had been explained to him, he had compassion for her and, with tears in his eyes, he ordered the infant to be brought to him. People went and found that it had been sold in the market. The sultan ordered the price to be paid to the purchaser and the child was taken from him. He himself stayed where he was and did not move until the infant was brought and handed over to the woman who took it, wept mightily, and hugged it to her bosom, while people watched her and wept with emotion also. She looked heavenward and began to utter incomprehensible words. Then he ordered that she and the infant be taken on horseback and be restored to her camp'.<sup>136</sup>

<sup>136</sup> Ibn Shaddād, *Al-Nawādir*, *op. cit.*, pp. 118-119, See also Ibn Shaddād, *The Rare and Excellent*, *op. cit.*, pp.147-148, Ibn Taghrībardi, *al-Nujūm al-Zāhira*, *op. cit.*, Vol.6, p. 10, Al-Hanbalī, *al-Uns Al-Jalīl*, *op. cit.*, Vol. 1, p. 518.

## 6.6 Conclusion

Salāh al-Dīn comes close to being the model of chivalry; he was generous toward defeated enemies, kind toward the Crusaders' wives and women, and humane with captured prisoners. Once he regained Islamic Jerusalem he left it open to pilgrims of all faiths. Salāh al-Dīn was a determined fighter and a good strategist. With regards to Islamic Jerusalem, it can be concluded that the attitude of Salāh al-Dīn toward the Christians was totally different from that of the Crusaders toward the Muslims. Although he had the power to do so, Salāh al-Dīn did not kill tens of thousands, unlike the Crusaders when they first entered Islamic Jerusalem. His treatment of Christians and non-Muslims in Islamic Jerusalem was characterised by tolerance, respect and generosity.

## Chapter seven

### Conclusion

On seeing how Muslims treated Christians in Islamic Jerusalem, the study of the juristic principles concludes that Islam has well organised and established the ways in which Muslims should deal with and treat non-Muslims. This emerges from a number of Qur'ānic verses and Prophetic traditions, which are to be considered as an eternal legislation until the Day of Judgment. These sources affirm to what extent Islam cares about Jews and Christians, for Islam refers to them as the People of the Book; a term that holds the meaning of honour, denoting that they are the descendants of peoples with revealed scriptures.

The Qur'ān urges Muslims to base their treatment with the People of the Book on peaceful cooperation and mutual respect, and warns them against breaking covenanted rights and principles of justice and kindness, especially with those who have declared peace with the Muslims and do not fight them. Deviation from this basic rule is only justified in certain exceptional situations. Therefore, Muslims cannot persecute others, or take away their rights, or hurt them simply because they are non-Muslims. The study concludes that justice (*'Adl*) is one of the most fundamental bases for the treatment of non-Muslims. This is because in Islam justice should be meted out regardless of colour, race and religion. The study concludes that an agreement among the Qur'ānic interpretations in past and present times

emphasises that justice is a primary condition for the treatment of non-Muslims as well as Muslims.

The study also found another central concept in the treatment of non-Muslims; that is '*al-Birr*'. This concept, which the Qur'ān uses to describe the way children must deal with their parents indicating the utmost care is also used to encourage Muslims to use in their relations with non-Muslims. The study also found how important human unity is in determining the way of dealing with non-Muslims. The protection, rights and security of non-Muslims in the Islamic state is derived from the principle of humankind, as all mankind is the creation of Allah, the only God, without discrimination between Muslims and non-Muslims. Therefore, Muslims should implement good conduct towards non-Muslims as a result of an understanding of human dignity and with the knowledge that the differences between human beings are no more than the will of Allah. In addition, Muslims are not entitled to judge non-Muslims for their disbelief.

This study has helped to better understand one of the most dangerous concepts, namely the prohibition of alliance with non-Muslims. The study found that the prohibition against entering into alliances with non-Muslims is not an unlimited issue or an open statement; it has a set of conditions. Understanding and realising the reason behind the revelation of Qur'ānic verses dealing with this topic can facilitate a better understanding of the circumstances, on which the prohibition is based; otherwise interpreting them in an unrestricted manner contradicts the orders of the Qur'ān that enjoin affection and kindness to the good and peace-loving peoples of every religion. Fair treatment and cooperation with non-Muslims are not the same as

loyalty. Rather they are practical conditions for promoting good and fighting evil. The type of loyalty the Qur'ān warns against is when a Muslim favours non-Muslims and grants them love and support against Muslims.

The *Sunnah* of Prophet Muhammad, whether sayings or deeds, has established a clear approach to Muslim treatment of non-Muslims. The constitution of *Madīnah* has exposed a high level of organisation that the Prophet initiated in *Madīnah* with the Jews, which guaranteed them rights as citizens of the Muslim state. The constitution placed the rules of justice over and above religious solidarity, and affirmed the right of the victims of aggression and injustice to rectitude regardless of their tribal or religious affiliation. The pattern for future relations and treatment of non-Muslims within the Islamic State has been established through this constitution. The basic principle of this treatment was based on religious tolerance, non-interference in the religious affairs of the non-Muslim group, and the freedom of religion for all citizens.

The treaties of the Prophet with non-Muslims were the cornerstones for guiding the Caliphs and Muslim leaders in their dealing with non-Muslims. The Prophet's pacts indicate His practical application of the concepts of tolerance and religious freedom. Once the *Dhimma* pact is concluded, the non-Muslim automatically becomes a citizen of the Islamic State, benefits from its protection, and shares all the basic rights a Muslim has regardless of his/her religion. The researcher would like to note that the terminology of ethnic minority has no place in Islamic law.

The rights and obligations of the *Dhimmīs* have created an environment which has enabled non-Muslims to live peacefully alongside Muslims in the Islamic state. In this study, very crucial concepts, such as the *Dhimma* pact and the *Jizyah* tax, were examined and discussed. These concepts have been a source of much confusion and inaccurate interpretation by western writers. The study has found that the *Dhimma* pact is a contract like any other contract between citizens and state, as all citizens are equal. With regard to the *Jizyah*, it has been found that this is no more than participation of the citizens in the revenue of the state. The *Jizyah* was meant to enhance feelings of citizenship, for several reasons: First it was clear that it was intended to cover the expenses of protecting non-Muslims from outside attack. As citizens, non-Muslims have the right to protection. Second paying *Jizyah* did not apply to the needy, including the poor, females, children, slaves, and monks and hermits. Third, payment of *Jizyah* was also in return for exemption from military service. The study concludes that exempting non-Muslims from military service was because it would be illogical to ask non-Muslims to fight for the sake of Islam and Muslims. It would be like forcing them to practice a system of worship without basic belief. However, if a non-Muslim subject participated in a military service in a certain year, then he is exempted from the *Jizyah* for the year in question. Fourth, non-Muslims do not have to pay the Muslim *Zakah* tax, which is 2.5 percent of savings annually. The *Jizyah* varied in amount which means that there is no fixed rate and that there is room for flexibility depending on time, place, the economic circumstances and people's means. It is beyond doubt that Islam does not impose the *Jizyah* as compensation received from non-Muslims for their disbelief in Islam, simply because the Islamic *Shari'ah* rises above all material values.

This study found that *Jihād* is a mean and not an end or objective in Islam. It is the last resort, used only when all other measures fail. The purpose of *Jihād* is to remove injustice and aggression. Even when *Jihād* is inevitable, Muslims are obliged not to exceed the limits, for example, not to fight anyone who does not fight against Muslims. This Islamic dogma is unique and has never been seen before Islam with any other nation; the world has never previously witnessed such behaviour.

Having examined the periods of ‘Umar and Salāh al-Dīn, the researcher found a number of similarities between the attitude of these two leaders towards the non-Muslims, especially the Christians, whether in or outside Islamic Jerusalem. This is because both ‘Umar and Salāh al-Dīn were well-educated and religious men, and both adhered to the basic guidelines of the Qur’ān and the *Sunnah* with regard to treatment of non-Muslims. However, there was also a difference between the two periods. One of the differences, is that the political situation in the Islamic state in ‘Umar’s time was totally different from that of Salāh al-Dīn. The Islamic state in ‘Umar’s time was strong, with the central government in *Madīnah* controlling the whole extended Islamic state. The geographical region was rapidly expanding as a result of continual Muslim conquests. A huge number of non-Muslims, especially Christians, became subjects of the state and were classified as *Dhimmīs*. In Salāh al-Dīn’s period, there were two Caliphates, and the Crusaders occupied large geographical areas of the Muslim territories. Representing the *Sunnīs*, the first was the caliph in Baghdad, who was so weak and had no control over many rival emirates of *al-Shām*. The second represented the *Shī‘īs* and was in Cairo. This Caliph also had no power – as the power was in the hands of his Prime Minister. The security situation at both Caliphates was unstable.

This study refutes the claims that there was some instances of injustice in the treatment of Christians such as the conditions of Banū Taghlib and the so-called pact of ‘Umar. After thoroughly researching these two incidents, the study concludes that ‘Umar was not the person who issued the conditions of Banū Taghlib; rather it was the Prophet Muhammad himself, who issued the conditions upon request from the Muslims of Banū Taghlib, in order to protect their children in the future, especially during times of war. With regard to the issue of *Jizyah* the study found that Banū Taghlib were not exempted from paying it but it was, in fact, collected from them under the term *Sadaqa* upon their request, provided that the amount of this *Sadaqa* was doubled. The researcher concludes that ‘Umar’s decision to call this amount of money *Sadaqa* was not objectionable, so long as the money ended in the Muslim treasury. The term *Jizyah* can be taken under any name as long as the non-Muslims comply with paying the agreed amount.

The so-called pact of ‘Umar has appeared as a set of regulations at a later date, after Caliph ‘Umar’s period and had no relevance to the period of the first Islamic conquests. The study concludes that the humiliating conditions enumerated in this document are absolutely foreign to the mentality, thoughts and practice of ‘Umar. Having examined the so-called pact of ‘Umar it is found that it suffers from two defects. The first is the chain of narrators contains untrustworthy persons; and the second is, there are some defects in the text itself that demonstrate that ‘Umar was not the originator of this document. Quite the opposite, ‘Umar’s attitude towards the *Dhimmīs* illustrate his utmost care towards non-Muslims which entails rejection of the so-called pact of ‘Umar being attributed to Caliph ‘Umar. The deteriorated



political, economic, and social situations seem to be the factors underlying the false emergence and spread of this document in the later periods.

During the early time of Salāh al-Dīn's rule in Egypt, the deterioration in security and political situation urged Salāh al-Dīn to apply harsh measures that deviated from the appropriate way of treating the *Dhimmīs* (as well as Muslims). However, once the situation had settled Salāh al-Dīn immediately returned to the right way of treatment. The study concludes that there was no link between Salāh al-Dīn's actions against the Christians in Egypt during his early days and the Crusaders' occupation of Islamic Jerusalem, both being Christians.

Both 'Umar and Salāh al-Dīn paid great attention to Islamic Jerusalem and tried their best to liberate it. 'Umar was attempting to continue the efforts of the Prophet Muhammad and Caliph Abū Bakr in liberating Aelia (Islamic Jerusalem). Similarly, Salāh al-Dīn continued with the efforts made by his predecessor Nūr al-Dīn in his effort to liberate the city. Islamic Jerusalem was the central point in the life of Salāh al-Dīn; he spent more than twenty years preparing to liberate it. Both leaders were able, after extensive efforts, to liberate it from the Byzantines and the Crusaders. Two major decisive battles took place before the liberation of Islamic Jerusalem. In 'Umar's period, the decisive battle was that of *al-Yarmūk*, whereas, in Salāh al-Dīn's period, the most important and decisive battle was that of *Hittīn*. However, in both cases liberation of Jerusalem was done through peaceful surrender. The first Islamic conquests of Islamic Jerusalem and later its liberation by Salāh al-Dīn were totally different from wars and battles that usually bring destruction and bloodshed to warring parties. The circumstances of these two conquests are quite different, in that

there was no bloodshed in either event and Islamic Jerusalem was surrendered to the Muslims after negotiations. The conditions of surrender in both cases were not harsh. The assurance of safety 'Umar granted to the Christians of Aelia was echoed, renewed and re-implemented by Salāh al-Dīn once again. This assurance is considered as a turning point in the Muslim treatment of non-Muslims. 'Umar's assurance of safety reflects the spirit of tolerance towards non-Muslims in general and Christians in particular. Despite some doubts arising about the various versions of 'Umar's assurance, the essence of this document is compatible and in line with the pacts and treaties Muslims used to issue to conquered peoples, which used to contain high levels of tolerance and good attitude toward non-Muslims. However, the later date of its appearance, the evident elaborations in its text, and the inaccuracies in its date prevented the researcher from stating with certainty that the text dealt with is the original and authentic text of the assurance of 'Umar given in the 16 A.H.

The study concludes that some conditions of the selected text of al-Tabarī's version of 'Umar's assurance of safety were added during later periods. For instance, the condition, which prevents Jews from residing in Aelia (Islamic Jerusalem), was a result of the Christians-Jews conflict, as the Christians were aiming to keep Islamic Jerusalem as a Christian city. When the Christians realised that Islamic Jerusalem was under Muslim rule and that Jews were no longer prevented from residing in the city, the Christians were threatened by this status. It was because of this that somehow this condition was added into al-Tabarī's version. It is recommended in this research, that this circumstantial evidence seems to require further investigation. It is also recommended that research relating to the original manuscript of 'Umar's assurance is urgently needed.

The study asserts that the Orthodox version to be no more than a forgery as a result of the Christians-Christians conflict and their dispute among themselves about who was to control the holy places. This was meant to give superiority to the Orthodox sect over the different Christian sects in Islamic Jerusalem. Studying this document surely reveals that it had been invented during the Ottoman period.

‘Umar’s assurance, stands as an important reference text and contains basic principles for the relations between Muslims and non-Muslims and the way Christians should be treated, which are applicable in all times and places. Any contrary incidents would be a deviation from the original path. Therefore, when Salāh al-Dīn entered Islamic Jerusalem, he did not produce a new practice. Salāh al-Dīn was in no need of inventing and issuing a new assurance: to him ‘Umar’s assurance was the best valid and applicable practice. This was shown when a dispute arose between Muslims with regard to the Church of the Holy Sepulchre. Salāh al-Dīn refused to destroy the church, as was the majority opinion, justifying his refusal by quoting ‘Umar’s action when the latter saved the church and left its full control to the Christians themselves, in return for Christians paying *Jizyah* in both periods.

The study doubts that there was a Christian prophecy regarding ‘Umar’s attributes in Christian holy books that he will be the conqueror of Aelia (Islamic Jerusalem). The study could not find any reports made by priests or monks in *al-Shām* mentioning anything about the prophecy of ‘Umar’s description. It is more plausible to say that the Patriarch insisted that Caliph ‘Umar should come personally and receive the keys of Aelia for several reasons, including, the sanctity of Aelia to Christians, his desire to surrender Aelia to the head of the state, to fully guarantee safety of their places of worship, and the patriarch may have had a number of issues and wanted to negotiate

them with 'Umar as head of state, in order to ensure the implementation of the conditions later on.

One of the guarantees 'Umar gave in his assurance to the Christians was that their churches would not be changed into dwellings nor destroyed. Regarding their religious rights, no compulsion would be exercised against them. 'Umar's words were soon followed in practice when 'Umar rejected praying in the Church of the Holy Sepulchre. If he had done so, the Muslims might have later used this as an excuse to build a mosque there to commemorate the first Islamic prayer in Aelia (Islamic Jerusalem). In studying this event, one can clearly see the extent of 'Umar's understanding and tolerance and his firm application of the Qur'anic injunction, *'there is no compulsion in religion'*. It is important to mention that this event was not mentioned in the early Muslim historical or juristic literature, and it was mentioned only in some later Muslim historical literature. The authenticity of this narration, however, cannot be in doubt, especially in light of the fact that 'Umar was renowned for such actions.

One more event that reflects the good treatment of Muslims towards Christians in Aelia is the handing over of the keys of the Church of the Holy sepulchre by the Patriarch Sophronious to Caliph 'Umar. In doing so, it seems that Sophronious had guaranteed the safety of this church, and protected it from any future dispute between the various Christians sects concerning the right of control of the church. The refusal of 'Umar to pray in the church, and entrusting Muslims with the keys of the church by the Christians themselves, further reflect the tolerance of Islam toward Christians.

The study shows similarities in the situation of the Christians in Aelia (Islamic Jerusalem) prior to the first and second Islamic conquests and their attitude towards these conquests. The study showed the welcome of the local Christians to the first and second Islamic conquests as being liberation from the domination of the Byzantines and the Latin Catholics respectively. In the first, the Christians welcome was deduced from the fact that there was serious disagreements between the Monophysites and the Byzantine emperor and the Christians were afraid that Emperor Heraclius might start to persecute them in order to force upon them his beliefs. They therefore readily received the new Muslims conquest which promised them tolerance of religion. Another factor played a great role in their acceptance of the Muslims was that the Christians of Aelia had more social and historical ties with, and saw themselves as belonging to, an Arab culture than the Byzantines culture. This made them welcome their Arab brethren against the alien Byzantines.

In the second Islamic conquest, the attitude of the native Christians during the siege towards Salāh al-Dīn was based on collaboration. The study found that it was well known to all Crusaders that thousands of Greek Orthodox Christians in Islamic Jerusalem would actually welcome a Muslim liberation from the domination of the Church of Rome. During Crusades rule, Christians were made to attend ceremonies, the language and rituals of which were so different from theirs. The native Christians had always looked back longing to the days before the Crusaders under Muslim rule, when they had the freedom to worship as they were pleased. This seems to be what they expected and what exactly happened. Unlike the Crusaders, when Salāh al-Dīn entered Islamic Jerusalem, he made it an open city to all Christian's sects. He allowed them to practice their rituals the way they wished to.

Unlike what Goitein and the Encyclopaedia of Islam claimed, the study concludes that when 'Umar conquered Aelia, the status of the Christians underwent an immediate change, and the rights granted were in their favour. With regard to the vacancy of the patriarch's seat in Islamic Jerusalem between (638 AD – 706 AD), it is found that the reason for this vacancy was due to disagreement between the Monophysites Christians of Aelia (Islamic Jerusalem), with the Byzantine Church in Constantinople; the Muslims had no role in hindering the filling of this post.

This study rejects the claim that 'Umar took another pact, similar to the so-called pact of 'Umar, from the Christians of Aelia mainly because there is no mention of it by the early Muslims and non-Muslim historians and its alleged terms sharply contradict the well known terms in 'Umar's assurance of safety.

Salāh al-Dīn's magnanimity towards the Christians (Crusaders and native Christians) contrasts sharply with the attitude of the victorious Crusaders in 492AH (1099AD). The peaceful taking of Islamic Jerusalem in itself was enough to show Salāh al-Dīn as being a chivalric and fair-minded leader. Salāh al-Dīn's behaviour was recognized by both the Muslim and Christian worlds as characterised by great generosity. Salāh al-Dīn treated Crusaders and the native Christians in accordance with Islamic teaching. He accepted ransoms from the Crusaders and the *Jizyah* from the local Christians in return for their safety. Clearly, the instructions of Islamic teaching, which Salāh al-Dīn was aware of, stopped him from committing barbaric actions similar to those carried out by the Crusaders.

This study has refuted the claim that the reasons behind the launch of the Crusades and the waging of war against the Muslims were for the rescue of the Christians from Muslim persecution. It is found that the Christians had been in a very good situation since the first Islamic conquest of Islamic Jerusalem. They were allowed to perform their religion freely without any disturbance, and their houses of worship flourished everywhere in the city. Based on the collected evidence, it is clear that Christians and Muslims in Islamic Jerusalem lived in harmony, in a climate of peaceful co-existence and much less tension than the Crusaders wanted to believe.

Salāh al-Dīn has distinguished between two types of Christians: the invaders Crusaders who were behind the horrific massacres in Islamic Jerusalem, and the native Christians who were either Arabs or followers of the Greek Orthodox church. The study shows that ‘Umar might also have put Christians into two categories: the Arabs and the non-Arabs (Byzantines and others).

The long negotiation between Salāh al-Dīn and King Richard showed the position of Islamic Jerusalem in both Salāh al-Dīn’s and the Crusaders’ minds. It also showed how Islamic Jerusalem was important to both sides, and that both sides would make utmost efforts to keep the city under their control. Richard, at the beginning of the negotiation, asked Salāh al-Dīn’s army to return to their countries and claimed that not only Islamic Jerusalem, but also the whole area belonged to the Crusaders and the Muslims had no right in that place. His demand dropped dramatically towards the end to the point where he was willing to accept even a small village in the area. Apart from hoping that he would be allowed to make a pilgrimage, Islamic Jerusalem was no longer his aim. In fact, Richard desperately wanted to reach a peaceful agreement, and return home. The reasons behind Richard’s insisting of holding a

peace treaty could be summarized in three main points, including: his deteriorating health, his assessment of the power of the Muslim army which showed him that it was greater than he had expected, and the deteriorating situation in England as his brother John was planning to overthrow him and take his throne. Salāh al-Dīn showed that there was no way that he would give up Islamic Jerusalem; he would always assert the rights of the Muslims in Islamic Jerusalem without scarifying the rights of Christians therein.

Finally, the *Al-Ramla* peace treaty was carefully negotiated and signed. Salāh al-Dīn was to keep Islamic Jerusalem, provided that he would allow free passage, without tribute. That is to say the Crusaders admitted the rights of Muslims in Islamic Jerusalem while the Muslims confirmed the right of native Christians to live in Islamic Jerusalem and the non-native Christian to come and visit the holy places in the city whenever they liked. Finally, this peace treaty refuted the whole idea wherein the Crusaders relied on their justification to the Crusade, which was to liberate Islamic Jerusalem from the Muslims. Once again Salāh al-Dīn adhered to the terms of the peace treaty, which contained the freedom of religion including allowing Christians to visit various sites in Islamic Jerusalem and perform pilgrimage.

‘Umar and Salāh al-Dīn were strong Islamic examples in showing and implementing the teaching of Islam in treating non-Muslims. The study rejects totally the arguments of some modern writers who have claimed that Muslim treatment of non-Muslims was bad and that Islamic teaching carries within it hatred and injustice toward non-Muslims. The Muslim policy towards non-Muslims, especially in Islamic Jerusalem, established a system that enabled the Muslims to live side by side with Christians and Jews.



Finally, the researcher hopes that this thesis has clarified the Islamic teaching of the Muslim treatment of non-Muslims during ‘Umar and Salāh al-Dīn’s period. He also hopes that this will encourage more research on these two vital periods. The recommendations emerging from this study are as follows:

- Further researches on the Muslim treatment of non-Muslims in Islamic Jerusalem during other periods; the period between ‘Umar and Salāh al-Dīn is particularly strongly recommended.
- There are similarities between the so-called pact of ‘Umar and al-Shāfi‘ī’s draft of a formal document which the leader of the Muslims should follow when writing a *Dhimma* pact to Christians. The researcher strongly recommends further research on al-Shāfi‘ī’s draft to see when exactly he wrote it, why he wrote it, and whether he relied on any other document in writing it. And finally, did this draft appear in the original manuscript of *Kitāb al-Umm*?
- The issue of entrusting the Muslims with the keys of the Church of Holy Sepulchre up to this day is an important issue, despite the fact that this is not mentioned in early Muslim literatures. The researcher recommends more research on this topic to see when exactly were the keys given to the Muslims to keep and the circumstances around entrusting the Muslims with the church.
- The issue of the so-called pact of ‘Umar to the Christians of Aelia (Islamic Jerusalem) is in need of more research, to discover why some late Muslim scholars reported that ‘Umar took such a pact from them, while the term in ‘Umar’s assurance of safety totally contradicts the contents of this pact.

Peace, liberality and security in Islamic Jerusalem will never be restored until Islam rule is reinstated. Only Muslims guarantee to respect the holiness of Islamic Jerusalem and observe its central position not only in the Muslims' faith, but also in that of Christians and Jews. The Christians have never tasted the freedom of religion in Islamic Jerusalem except during Muslim rule. Even when they were under their fellow Christians rule most of their rights were banned. Islam was, is and will always be the only safe haven for the followers of other religions. The continuous existence of Arab Christians, their churches and their holy places in Islamic Jerusalem til today is a clear evidence of the good treatment non-Muslims have received from Muslims.

## **Glossary of Technical Terms**

‘Afu	Pardon, Forgiveness.
Abū	Father of.
Ahl al-Kitāb	Jews and Christians
Al-‘Adl	Justice
Al-Ansār	The Helpers, Supporters from Maḍīnah
Al-Muhājirūn	The Immigrants From Makka to Maḍīnah
Al-Tadāfu‘	Counter balance
Amān	Safe conducts
Baī‘ah	Pledge of allegiance
Bāit al-Māl	The state treasury in an Islamic State.
Banū	Children of.
Caliph	The Imam or the Muslim Ruler

Caliphate	The Muslim State
Dhimmi	A non-Muslim living under the protection of the Islamic State with permanent residency
Dīn	Religion
Dinār	An ancient gold coin.
Faqīh	A person who is an expert on Islamic Jurisprudence (Law) Fiqh
Fatwa	Legal opinion concerning Islamic law.
Fiqh	Islamic law and Jurisprudence, the understanding and application of Sharī‘ah. It contained two general sections: ‘ibādāt, worship, where only what is prescribed is permitted; and mu‘āmalāt, social affairs, where everything is permitted except what is explicitly prohibited.
Hadīth	The statement of the Muhammad; his saying, deeds and approval, etc.
Harbī	A non-Muslim who have no covenant with Muslims.

Hijrah	The Prophet and the Muslims Immigration to Madīnah
Hilm	Forbearance
Hukm	Governmental ruling, Decision
Ibn	Son of.
Imām	The person who leads others in prayer, or is the ruler or leader of an Islamic State. It is also used as a title to describe a famous scholar.
Jihād	Striving, personable effort in the advancement of a sacred cause, struggle the force of evil, military campaign.
Kitāb	Book
Safh	Overlooking, Disregarding.
Sahih	With reference to Hadīth, sound authentic.

Sunnah	Liberally means legal way or ways, orders, acts of worship and statements etc. of Prophet Muhammad, that have become models to be followed by the Muslims.
Tafsīr	Interpretation of the Verses of Qur'ān
Ummah	Community of Muslims throughout the world in their attachment to Islam. It based on no longer language, race, or colour but includes all who believe in Allah and His Messenger.
Wazīr	Prime Minister
Zakah	Charity, purification, but commonly used in reference to the obligator tax of about two and half per cent that affluent Muslims must pay in order to help the poor.

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